

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
)	
Opposer,)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595 and 76/075,729
)	
KONAMI CORPORATION,)	
)	
Applicant.)	
_____)	

**APPLICANT'S MOTIONS TO COMPEL DISCOVERY &
PRODUCTION OF WITNESSES, TO DETERMINE THE
SUFFICIENCY OF ADMISSIONS & TO SUSPEND PROCEEDINGS
AND APPLICANT'S SUPPORTING MEMORANDUM OF LAW**

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Pursuant to Rules 36(a) and 37(a) of the Federal Rules of Civil Procedure and Trademark Rules 2.120(d), (e), and (h), Applicant, Konami Corporation ("Konami" or "Applicant"), moves the Board for an Order:

1. Directing Opposer to supplement its answers to Applicant's Interrogatories Nos. 2, 4, 12, 13, 17, 18, 20, 23 and 24;
2. Directing Opposer to supplement its responses to Applicant's Requests for Production of Documents and Things Nos. 13, 14, 17, 18, 20 and 21;
3. Directing Opposer to produce all unprivileged documents responsive to Applicant's Interrogatories and Requests for Production of Documents and Things;
4. Directing Opposer to produce witnesses for depositions at a mutually agreeable time and place;
5. Deeming Opposer's responses to Applicant's First Request for Admissions Nos. 4-10 insufficient; and
6. Directing Opposer to fully respond to Applicant's First Requests for Admissions Nos. 4-10; and
7. Directing Opposer to provide a log of all documents withheld on grounds of any privilege; and
8. Suspending proceedings pending resolution of these motions.

Pursuant to Trademark Rule 2.127(a), Opposer shall file a response to this motion within fifteen (15) days from the date of service of the motion unless this time is extended by the Board.

PRELIMINARY STATEMENT

After making several good faith efforts to resolve discovery disputes over the course of several months, Konami Corporation (Applicant) submits this Memorandum in support of its motions to compel UGO Networks, Inc. (Opposer) to adequately respond to discovery and to produce witnesses, to determine the sufficiency of Opposer's responses to Applicant's requests for admissions, and to preclude Opposer from later offering evidence that it failed to produce during discovery. (See Exhibits 10, 11, 12,

13, 15, 16, 17 and 22.) Applicant submits this Memorandum pursuant to Rules 36(a) and 37(a) of the Federal Rules of Civil Procedure and Trademark Rules 2.120(d), (e), and (h).

FACTUAL BACKGROUND

1. Application for Registration and Opposition

On June 21, 2000, Applicant filed its applications for federal registration of its YU-GI-OH Marks (Applicant's Marks), Application Serial Numbers 76/074,595 and 76/075,729. Applicant's Marks were published for opposition on October 8, 2002. One month later, on November 6, 2002, Opposer filed a Notice of Opposition for each application, which resulted in two Opposition proceedings having Opposition Numbers 91/153,578 and 91/154,657. On April 23, 2003, the Board granted the parties' stipulated motion to consolidate the proceedings.

2. Applicant's Discovery Requests

In the parent Opposition, the Board ordered discovery to open on December 15, 2002. By January 7, 2003, Applicant had served Opposer its first set of discovery requests, which included: (1) Applicant's First Set of Interrogatories, (2) Applicant's First Request for Production of Documents and Things, and (3) Applicant's First Request for Admissions.¹ (Exhibits 1-3.)

3. Discovery Disputes & Applicant's Good Faith Efforts to Resolve Them

More than two months after Applicant's initial discovery requests, and after three extensions granted by Applicant, (Exhibits 4, 5 and 6), on March 14, 2003, Opposer submitted its responses. (Exhibits 7, 8 and 9.) Of these, the summary table below identifies Opposer's responses that are most deficient:

¹ On November 20, 2003, Applicant received Opposer's Supplemental Responses to Applicant's First Set of Interrogatories and Opposer's Supplemental Responses to Applicant's First Document Requests. (Exhibits 20 and 21.) Nevertheless, only its response to Interrogatory No. 18 even attempted to address Applicant's disputed discovery requests, and with respect to this response, Opposer, again, fell extremely short of its obligations as discussed *infra* II.B. Because these supplemental responses remain deficient, Applicant asked Opposer to supplement the responses further by Tuesday, November 25, 2003. (Exhibit 22.) Opposer did not supplement its responses and indicated that it would not do so until early December, thereby requiring Applicant to File this Motion.

DISCOVERY TOPIC	DEFICIENCIES
Administrative Information & Unreliable Responses	
Interrogatory Nos. 2, 17, 24	Incomplete: Opposer failed to provide contact information necessary to serve subpoenas
Interrogatory No. 20	Incomplete: Opposer failed to sufficiently identify whether it distributes services in connection with its marks solely via the Internet
Doc. Req. Nos. 18, 21	Non-responsive: Opposer failed to produce documents and things forming the basis for responding to requests for admissions and/or referred to in its responses to interrogatories
Admissions Req. Nos. 3-10	Non-responsive: Opposer failed to directly admit or deny several requests
Knowledge Regarding Applicant's Mark, Likelihood of Confusion, and Actual Confusion	
Interrogatory Nos. 12, 13, 18	Non-responsive: Opposer failed to identify its knowledge regarding when it became aware of Applicant's Mark, advice as to likelihood of confusion between the marks at issue, and instances of actual confusion between the marks at issue
Doc. Request Nos. 13, 14	Non-responsive: Opposer failed to produce any documents regarding its first knowledge of Applicant's Mark or any action related thereto
Doc. Request No. 17	Incomplete: Opposer failed to produce evidence of actual confusion within its custody or control
Mark Similarity	
Interrogatory No. 4	Non-responsive: Opposer failed to identify any person involved with conceiving of its marks
Interrogatory No. 23	Non-responsive: Opposer failed to identify the meaning and commercial impression of its marks
Doc. Req. No. 20	Non-responsive: Opposer failed to produce documents regarding the appearance, pronunciation, meaning & commercial impression of its marks

Based on these deficiencies, Applicant made at least six (6) written attempts over the past five (5) months to obtain adequate discovery responses from Opposer, as well as several other less formal attempts by telephone. (See Exhibits 10, 11, 12, 13, 15, 16, 17 and 22.) For example, June 16, 2003, Applicant sent a letter to opposing counsel making specific objections to each of the twenty-three (23) discovery requests identified in the summary chart above. Id. In this letter, Applicant noted that it was

writing “in a good faith effort to resolve these discovery disputes before bringing them before the Board for resolution.” Id. Six weeks later, Opposer proposed that the parties put the discovery issues on hold to discuss settlement. (Exhibit 11.) Opposer did not supplement its deficient responses.

After settlement negotiations ended, and a Stipulated Protective Order was in place, Applicant reiterated its initial request. In a letter to opposing counsel, dated October 7, 2003, Applicant again asked Opposer to supplement or change its aforementioned responses to discovery requests which were deficient. (Exhibit 12.) Four times hence, Applicant has made the same request. (Exhibits 13, 15, 16, 17 and 22.) Rather than be responsive to Applicant’s requests, however, Opposer merely made sarcastic and unproductive remarks.

For example, in a letter to Applicant dated October 27, 2003, Opposer declared:

We do not fault your efforts to make certain you have an answer to your question of what UGO stands for. However, we do fault your devoting two pages of a supposed “good faith” letter to insisting that we again share in this mental exercise. (Exhibit 15.)

After repeated requests, Opposer finally served its Supplemental Responses to Applicant’s First Set of Interrogatories and Applicant’s First Request for Production of Documents. (See Exhibits 20 and 21.) These supplemental responses, however, remain deficient. When Applicant requested that Opposer supplement these responses, Opposer again failed to do so, thereby forcing Applicant to file this Motion. (Exhibit 22.)

In sum, Opposer has effectively ignored Applicant’s several good faith attempts to resolve the discovery disputes. Unavoidably, therefore, Applicant asks the Board to compel Opposer to fully respond to Applicant’s discovery requests.

ARGUMENT

I. OPPOSER MUST ADEQUATELY PROVIDE ADMINISTRATIVE INFORMATION, SUPPLEMENT DISCOVERY RESPONSES TO ENSURE THEIR RELIABILITY & PRODUCE WITNESSES

As a general matter, Opposer’s disputed discovery responses are non-responsive, insufficient and unreliable. More specifically, Opposer fails to include contact information for individuals knowledgeable of Opposer’s Marks, it does not indicate all means by which it distributes its services, and it has not

produced all documents used in forming its bases for responding to interrogatories and document requests. In addition, Opposer's responses to requests for admissions are non-responsive and inadequate for evidentiary purposes. Moreover, Opposer unilaterally refused to produce its witnesses for properly noticed depositions. The record demonstrates that Opposer's efforts to delay the discovery process are unwarranted and require the Board to issue an order compelling discovery and production of witnesses, and deeming Opposer's responses to admissions insufficient.

A. Opposer Has Omitted Essential Contact Information of Potential Deponents

Opposer must provide contact information of individuals with knowledge of Opposer's Marks because it is relevant and fully discoverable. The Federal Rules of Civil Procedure provide that "Parties may obtain discovery regarding . . . the identity and location of persons having knowledge of any discoverable matter." Fed. R. Civ. P. 26(b)(1). Regarding interrogatories seeking contact information of individuals with knowledge about a party's mark, the Board has made clear that "names and business addresses of . . . officers and directors . . . are proper subject matter for discovery since such information may enable opposer to depose any of these individuals in order to enable [a party] to prepare for trial." Volkswagenwerk Aktiengesellschaft v. MTD Prods. Inc., 181 U.S.P.Q. 471, 473 (T.T.A.B. 1974).

In this proceeding, Opposer has repeatedly failed to provide contact information for several individuals knowledgeable about Opposer's Marks. Applicant's interrogatories propounded and Opposer's deficient responses follow:

Interrogatory No. 2: "Identify (by name and title) each of Opposer's supervisory employees responsible for the promotion, sale and distribution of Opposer's Services promoted and/or sold in connection with Opposer's Marks."

Response: "J. Moses, President and CEO; Michael McCracken, Chief Financial Officer and Executive Vice President, Corporate Development; Alexander Loucopoulos, Vice President, Corporate Development."

Interrogatory No. 17: "Identify those persons having the most knowledge of any market research (including surveys, studies, investigations and focus group inquiries) conducted by or on behalf of Opposer regarding any of Opposer's Marks."

Response: "See response No. 2, *supra*."

Interrogatory No. 24: "Identify each person who has supplied documents for information for, or who has participated in responding to, these interrogatories, Applicant's First Request for Production of Documents and Things and Applicant's First Requests for Admissions."

Response: "J. Moses, President and CEO; Michael McCracken, Chief Financial Officer and Executive Vice President, Corporate Development; Alexander Loucopoulos, Vice President, Corporate Development; Sabina Sudan, outside consultant; Linda Wright, Assistant; Jerry Lyons, former Chief Operation Officer of UGO Networks, Inc."

Applicant has an obvious and relevant interest in potentially deposing or serving a subpoena on individuals identified in its interrogatories. To satisfy its discovery obligations, Opposer must provide full contact information for all such individuals.

B. Opposer Obfuscates the Extent of Distribution of Services Under Its Marks

Opposer must also unambiguously respond to interrogatories regarding use of its mark in certain channels of trade and geographic areas. Where an Opposer provides some, but not all, information relevant to distributing services in connection with its mark, the opposer must supplement its response to completely answer the interrogatory. For one, "[i]nformation relating to the areas of distribution for a party's involved goods or services sold under its involved mark is discoverable." TBMP § 414(16). In addition, the Board finds that "information with respect to geographic areas of distribution of the goods bearing the mark is generally proper, and since the answers may have a bearing on the question of likelihood of confusion as well as abandonment, opposer should answer the interrogatory." J. B. Williams Co. v. Pepsodent G.m.b.H., 188 U.S.P.Q. 577, 580 (T.T.A.B. 1975).

As demonstrated by the response below, Opposer has deliberately failed to provide fully responsive information.

Interrogatory No. 20: "Identify the channels of distribution and the geographical areas of trade within which Opposer's Services are or are intended to be promoted and/or sold in connection with Opposer's Marks."

Response: "Ambiguity Objection. Proprietary Information Objection as to future plans. Relevance Objection as to use outside the United States. Without waiving these objections, Opposer responds that its services have been and are distributed via the Internet throughout the United States and the rest of the world. UGO's network has reached up to over 10 million unique visitors in a single month."

Opposer's response is deficient. Opposer must clarify whether or not it distributes services in connection with its mark by means other than the Internet. Opposer must identify any other such means if they exist.

C. Opposer Withholds Documents Relied Upon In Forming Responses

Similar to its responses to interrogatories, Opposer falls short of its duty in responding to requests for documents and requests for admissions. In adjudicating a motion to compel, the Board specifically addressed this issue: A "[d]ocument request [] is acceptable to the extent that [it] ask[s] for documents relied on or referred to in responding to [] interrogatories and admission requests." Kegan v. Lane, 1998 T.T.A.B. LEXIS 276, at *3 (T.T.A.B. Apr. 15, 1998). The deficiencies of Opposer's responses below are patently obvious, and even more impertinent given that Opposer has never produced any such documents:

Doc. Request No. 18: "Produce those documents and things forming the basis for the denial, in whole or in part, with respect to each of Opposer's responses to Applicant's First Requests for Admissions."

Response: "Overbroad Objection. Ambiguity Objection. In addition to these objections, Opposer points out that it has as yet received no discovery from Applicant and anticipates that such discovery will provide support for some of these denials."

Doc. Request No. 21: "Produce those documents, not otherwise requested herein, and referred to by Opposer in responding to Applicant's First Set of Interrogatories."

Response: "Overbroad Objection."

Opposer has flatly refused to produce documents responsive to Document Requests Nos. 18 and 21. Even if Opposer needed Applicant's discovery responses to determine why it made certain denials, it has possessed Applicant's responses since April 25, 2003. Thus, Opposer has had a full seven months to produce responsive documents, but has simply refused to do so. Applicant requests that the Board compel Opposer to provide full responses.

D. Opposer Has Failed to Admit or Deny Each Request For Admission and its Responses should be Deemed Insufficient.

Several of Opposer's responses to Applicant's First Request for Admissions fail to expressly admit or deny the request. Unambiguously, a party proceeding before the Board "must admit the matter of which an admission is requested; deny the matter; or state in detail the reasons why the responding

party cannot truthfully admit or deny the matter.” TBMP § 407.03(b). A party may not evade an individual request and then mechanically submit subsequent responses to a previously stated one which is ambiguous. See, e.g., M-5 Steel Mfg., Inc. v. O’Hagin’s, Inc., 2000 TTAB LEXIS 294, at *4-7 (T.T.A.B. Apr. 28, 2000) (concluding that evasive responses are insufficient).

In response to requests for admissions seeking to determine the meaning of “UGO,” Opposer’s Mark, Opposer submitted the following insufficient responses:

Adm. Request No. 3: “Admit that Opposer’s Mark, UGO, stands for ‘Underground Online.’”

Response: “Opposer admits that Opposer’s Mark, UGO, currently stands for ‘Underground Online’ or ‘UnderGround Online,’ although Opposer notes that Opposer’s Mark has in the past also been used to stand for other words, although the UGO mark and its pronunciation has remained consistent.”

Adm. Request No. 4: “Admit that Opposer’s Mark, UGO, is an initialism for ‘Underground Online.’”

Response: “See Response No. 3.”

Adm. Request No. 5: “Admit that Opposer’s Mark, UGO, is an abbreviation for ‘Underground Online.’”

Response: “See Response No. 3.”

Adm. Request No. 6: “Admit that Opposer’s Mark, UGO, is an acronym for ‘Underground Online.’”

Response: “See Response No. 3.”

Adm. Request No. 7: “Admit that Opposer’s Mark, UGO, stands for ‘UnderGroundOnline.’”

Response: “See Response No. 3.”

Adm. Request No. 8: “Admit that Opposer’s Mark, UGO, is an initialism for ‘UnderGroundOnline.’”

Response: “See Response No. 3.”

Adm. Request No. 9: “Admit that Opposer’s Mark, UGO, is an abbreviation for ‘UnderGroundOnline.’”

Response: “See Response No. 3.”

Adm. Request No. 10: "Admit that Opposer's Mark, UGO, is an acronym for 'UnderGroundOnline.'"

Response: "See Response No. 3."

Opposer's responses to Requests Nos. 4 through 10, referring back to the response to Request No. 3, are insufficient for discovery purposes. Opposer must actually admit, deny, or state in detail why it cannot admit or deny each request for Admission. The Board should deem Opposer's responses to Requests for Admission Nos. 4 through 10 insufficient and should require Opposer to respond properly to each of these requests.

E. Opposer Refuses to Produce Witnesses, Even After Receiving Timely Notice

Opposer also has an obligation to provide witnesses upon timely notification, which it has expressly rebuffed. In a proceeding before the Board, discovery depositions of officers, directors, and managing agents of a party may be taken on notice alone. Fed. R. Civ. P. 30(b)(6); TBMP § 404.05. The general notice requirements are satisfied where a party gives reasonable notice in writing, states the time and place for taking the deposition and the name and address of each person to be examined, if known. TBMP § 404.05. Further, any "[o]bjections to errors and irregularities in a notice . . . must be promptly served, in writing, on the party giving the notice; any such objections that are not promptly served are waived." § 404.08(a).

On October 24, 2003, Applicant served Opposer with Notices of Depositions of Opposer and two of its officers; each notice complied with notice requirements. (Exhibits 13 and 14.) In a letter dated November 12, 2003, Opposer did not object to notice, but rather refused to produce such witnesses, stating "[w]e will not produce the UGO witnesses named in your deposition notices until the conclusion of the previously noticed Konami deposition." (Exhibit 18.) Opposer's flat refusal to produce its witnesses for deposition was not justified. Opposer claimed that its Rule 30(b)(6) Notice of Deposition seeking to depose Konami Corporation – a Japanese corporation based in Japan – in New York city, gave it priority in the sequence in which depositions would be taken. However, Opposer's Rule 30(b)(6) deposition notice of Applicant was improper because Applicant is based in Japan and is not subject to a

Rule 30(b)(6) deposition anywhere, much less in New York city. See Jain v. Ramparts, Inc., 49 USPQ2d 1429 (TTAB 1998). Indeed, the Rules provide for Opposer taking a deposition upon written questions of a party based outside of the United States. See TBMP § 404.03(b). Hence, Opposer's legally unsupported Rule 30(b)(6) Notice of Deposition of Konami in New York city could not possibly justify Opposer's refusal to produce its witnesses for deposition in response to Applicant's proper Notices of Deposition. See Miss America Pageant v. Petite Productions, Inc. 17 USPQ2d 1067 (1990) (no priority of discovery). Accordingly, Applicant respectfully requests that the Board compel Opposer to produce its witnesses for deposition on a mutually agreeable date.

II. OPPOSER CANNOT WITHHOLD INFORMATION RELATING TO AWARENESS OF APPLICANT'S MARK, CONSIDERATION OF LIKELIHOOD OF CONFUSION & ANY CLAIMED INSTANCES OF ACTUAL CONFUSION

Opposer has failed to respond directly to discovery requests in a manner required by Board practice, the Trademark Rules, and the Federal Rules of Civil Procedure. First, Opposer has been unwilling to indicate the facts and circumstances surrounding its knowledge of Applicant's Mark. Second, Opposer refuses to indicate whether it considered the issue of, or received an opinion regarding, likelihood of confusion between marks at issue in this proceeding. Third, Opposer fails to describe or produce documents relating to instances of actual confusion. Each of these topics is highly relevant to likelihood of confusion analysis, and thus discoverable in Board proceedings. But because Opposer repeatedly fails to produce such evidence, Applicant respectfully requests that the Board compel Opposer to do so.

A. Opposer Obscures Its Knowledge of Applicant's Mark and Its Consideration of Likelihood of Confusion

Opposer must identify information and produce documents related to how and when it became aware of Applicant's Mark. In addition, Opposer must identify and produce documents related to any advice it received regarding likelihood of confusion between its marks and Applicant's Mark. Not only is a party required to determine when it acquired actual knowledge of the other party's mark, Am. Optical Corp. v. Exomet, Inc., 181 U.S.P.Q. 120, 123 (T.T.A.B. 1974), questions relating to whether an opposer

believes marks to be confusingly similar are also relevant, Johnston Pump/Gen'l Valve Inc. v. Chromalloy Am. Corp., 10 U.S.P.Q.2d 1671, 1676 (T.T.A.B. 1988), see also Goodyear Tire & Rubber Co. v. Tyrco Indus., 186 U.S.P.Q. 207, 208 (T.T.A.B. 1975) (holding that an opinion of mark validity or possible conflicts regarding adoption and use of a mark is not privileged).

In contrast to these requirements, Opposer makes inappropriate objections in conjunction with vague responses to Applicant's discovery requests:

Interrogatory No. 12: "State when Opposer first had knowledge of Applicant's use or registration of Applicant's Mark."

Response: "Ambiguity Objection to the extent that Opposer is not presently aware of Applicant's registration of Applicant's Mark. As to Applicant's use of Applicant's Mark, Opposer became aware of such use at least as early as September 1, 2001."

Interrogatory No. 13: "State whether Opposer considered the issue of, and/or received any opinions concerning, a likelihood of confusion between Applicant's Mark and any of Opposer's Marks."

Response: "Privilege Objection. Without waiving this objection, Opposer's notice of opposition in this proceeding states Opposer's position regarding the likelihood of confusion between Applicant's Mark and Opposer's Marks."

Doc. Request No. 13: "Produce those documents regarding the date and circumstances under which Opposer became aware of the use or registration of Applicant's Mark."

Response: "Privilege Objection. Relevance Objection."

Doc. Request No. 14: "Produce those documents regarding any action taken by Opposer in response to its awareness of Applicant's Mark."

Response: "Public Source Objection. Privilege Objection. Relevance Objection, in that any action or inaction of Opposer in regard to Applicant's Mark is not relevant to this proceeding."

Each of the following topics is directly related to likelihood of confusion analysis, and thus a relevant subject of discovery: (1) Opposer's knowledge relating to Applicant's Mark; (2) whether Opposer considered likelihood of confusion between the marks at issue; and (3) action Opposer has taken to remove any putative likelihood of confusion. Each of Opposer's responses identified above are either not fully responsive or are not responsive at all. Applicant respectfully requests that the Board compel Opposer to supplement each of these responses.

B. Opposer Has Failed To Identify any Claimed Instances of Actual Confusion

Opposer must identify and produce documents related to any incidents of actual confusion between its marks and Applicant's Mark. Since evidence of actual confusion "is directly relevant to the issue of likelihood of confusion, [Opposer] should specify all instances of actual confusion of which it is aware, and should describe the circumstances surrounding the incidents." Georgia-Pacific Corp. v. Great Plains Bag Co., 190 U.S.P.Q. 193, 197 (T.T.A.B. 1976); see also Neville Chem. Co. v. Lubrizol Corp., 183 U.S.P.Q. 184, 190 (T.T.A.B. 1974) (ordering an opposer to produce all documents related to instances of actual confusion). Opposer's responses are deficient:

Interrogatory No. 18: "Identify each reported instance of actual confusion, mistake, or deception known to Opposer between Opposer's Services promoted or sold in connection with any of Opposer's Marks and Applicant's Products promoted or sold in connection with Applicant's Mark."

Response (Original): "Ambiguity Objection as to the definition of 'reported.'"

Response (Supplemental): "Employees of Opposer have observed instances of actual confusion over the past several years regarding whether UGO is related to YU-GI-OH and/or Konami from: a) Opposer's advertisers; b) Opposer's clients; and c) family members of Opposer's employees. Additionally, Opposer appends hereto a printout of the Web site located at the URL <http://www.hh.ij4u.or.jp/~ugo/index.html>. This site appears to be a UGO copycat site in Japan selling copycat YU-GI-OH illustrations. The home page features a picture of a Japanese anime character, possibly associated with YU-GI-OH, signing its name as 'UGO.'" Mr. Gary Coleman, who participated in a UGO Web-a-Thon and has been a UGO weekly columnist, and whose image and voice have recently been incorporated into an online game called "Postal 2," has reported that players of Postal 2 are regularly confused about an association between UGO and YU-GI-OH.

Doc. Request No. 17: "Produce those documents regarding any instance in which a person has been confused, mistaken, or deceived as to the source of Applicant's Products advertised, promoted, offered for sale, or sold in connection with Applicant's Mark, and the source of Opposer's Services advertised, promoted, offered for sale, or sold in connection with any of Opposer's Marks."

Response: "Opposer will produce any such documents in its possession."

Opposer's responses and supplemental responses to Applicant's Interrogatory No. 18 completely miss the mark. First, Applicant requested that Opposer identify any claimed "instances" of actual

confusion. Opposer has not identified a single instance of claimed actual confusion.² Nor has Opposer produced any responsive documents. Instead, Opposer merely has referred generally to claimed instances of actual confusion but has not identified any of them.

For example, employees, agents, advertisers, and others whose potential confusion would go only to non-purchasing decisions are not the relevant audience for likelihood of confusion analysis. See, e.g., Elec. Design & Sales, Inc. v. Elec. Data Sys. Corp., 954 F.3d 713, 716 (2d Cir. 1992) (stating that “in the case of goods and services that are sold, the inquiry generally will turn on whether actual or potential ‘purchasers’ are confused”). The double hearsay that Opposer references regarding Gary Coleman also fails to identify any claimed instance of actual confusion in a manner that would permit Applicant or the Board to assess that evidence. Finally, Opposer has failed to produce any documents within its possession, custody or control responsive to Request No. 17. Applicant requests that the Board compel Opposer to supplement its response to Interrogatory No. 18 and Document Request No. 17.

III. OPPOSER MUST IDENTIFY PERSONS RESPONSIBLE FOR ADOPTING & USING ITS MARKS, DESCRIBE ITS MARKS & PRODUCE DOCUMENTS THAT BEAR ON MARK SIMILARITY & LIKELIHOOD OF CONFUSION

Under a false pretense, Opposer avoids properly addressing discovery requests relating to adoption, use, and characteristics of its marks. Opposer deliberately has dodged requests about persons involved with the selection and adoption of its marks. It also has refused to properly respond to discovery concerning its marks. Opposer’s disappointing tactics require Applicant to ask the Board to compel Opposer to reasonably respond to Applicant’s discovery requests.

A. Opposer Failed to Identify Any Person Involved With Initial Conception of Its Marks

Opposer must identify persons involved in the conception and first use of its marks, as requested. The rule is that “[i]nformation concerning a party’s selection and adoption of its involved mark is generally discoverable.” TBMP § 414(4). In addition, the Board recognizes that “a party should be able to depose those people in a party’s employ who are most knowledgeable concerning the circumstances

² The printout of a claimed Japanese website which Opposer attached to its supplemental responses is not affiliated with Applicant or Applicant’s YU-GI-OH mark.

surrounding the adoption and selection of a mark involved in an opposition proceeding,” Varian Assoc. v. Fairfield-Noble Corp., 188 U.S.P.Q. 581, 583 (T.T.A.B. 1975) (finding the identity of such persons discoverable), and that the identity of a person who suggests use of an involved mark is discoverable, Volkswagenwerk Aktiengesellschaft v. MTD Prods. Inc., 181 U.S.P.Q. 471, 473 (T.T.A.B. 1974).

In the present proceeding, Opposer claims that it does not know of whom Applicant seeks the identity, as illustrated below:

Interrogatory No. 4: “Identify the person(s) who first conceived of Opposer’s Marks for use by Opposer.”

Response: “Ambiguity Objection to the extent it is unclear whether this interrogatory seeks to identify the person(s) who first conceived of the UGO mark or those who first considered Opposer’s acquisition and/or current use of the mark.”

Opposer deliberately has not responded to Interrogatory No. 4. The clear point of the interrogatory, which Opposer attempts to obscure, is to interrogate the relevant witnesses involved with and responsible for Opposer selecting and adopting its mark. Accordingly, Applicant respectfully requests that the Board orders Opposer to supplement the response to Interrogatory No. 4 by identifying the persons who first conceived of the UGO Mark and the persons who first considered Opposer’s acquisition and/or current use of the mark, all of which are directly responsive to Interrogatory No. 4.

B. Opposer has Failed to Produce Relevant Evidence Concerning Its Marks

Opposer must identify the meaning and commercial impression of its marks and produce documents describing them. “The single most important factor in determining likelihood of confusion is mark similarity.” A&H Sportswear, Inc. v. Victoria’s Secret Stores, Inc., 237 F.3d 198, 216 (3d Cir. 2000). Therefore, discovery relating to mark similarity is obviously relevant and discoverable. See, e.g., Johnston Pump/Gen’l Valve Inc. v. Chromalloy Am. Corp., 10 U.S.P.Q.2d 1671, 1676 (T.T.A.B. 1988) (finding that descriptions of a mark are relevant and discoverable). Nevertheless, Opposer has failed to respond to Applicant’s discovery concerning Opposer’s Marks:

Interrogatory No. 23: “Identify the meaning and commercial impression of Opposer’s Marks.”

Response: "Ambiguity Objection as to the meaning of 'meaning and commercial impression.' Without waiving its objection, Opposer's Marks have come to signify Opposer and Opposer's goods and services to a broad community of Internet users. For example, in May 2001, Opposer won *Revolution Magazine's* award for Best online PR, and was a finalist in *Revolution Magazine's* Best Online Content category. Opposer also has received *Inside PR's* Creativity in Public Relations award for Best Program in the Entertainment Sector, and Tribeca Film Productions' Rulers Edge award for Best New Marketing Campaign."

Doc. Request No. 20: "Produce those documents regarding the appearance, pronunciation, meaning and commercial impression of Opposer's Marks."

Response: "Ambiguity Objection as to what manner of document is identified by this request. Without waiving this objection, Opposer will do its best to produce responsive, non-privileged documents."

With respect to the interrogatory, Opposer disregards it altogether, choosing instead to discuss third party media attention. Opposer has failed to identify the meaning or commercial impression of its Marks, even though these terms are readily identifiable expressions in trademark law. See, e.g., *Spice Island, Inc. v. Frank Tea & Spice Co.*, 505 F.2d 1293, 1296 (C.C.P.A. 1974) (defining "commercial impression" of a mark as something conveyed to prospective purchasers as an idea, a mental reaction, and a meaning). Applicant respectfully requests that the Board order Opposer to respond fully to Interrogatory No. 23 and Document Request No. 20, and produce all documents related to the appearance, pronunciation, meaning and commercial impression of its marks to afford Applicant a meaningful opportunity to prepare for trial.

IV. THE BOARD SHOULD ORDER OPPOSER TO SUPPLEMENT ITS DEFICIENT DISCOVERY RESPONSES AND PRODUCE WITNESSES FOR DEPOSITION

As outlined above, Opposer has failed to clearly and adequately identify information, to properly admit or deny relevant facts, to produce documents essential to Applicant's case, and to produce witnesses for deposition. In conformity with Board practice, Applicant respectfully requests that the Board order Opposer to supplement its discovery responses as outlined in this Motion and, produce its witnesses for deposition, so that Applicant can obtain evidence essential to trial of this action.

V. THE BOARD SHOULD SUSPEND PROCEEDINGS

By its actions, in violation of Board precedent, Opposer has withheld relevant documents and information, refused to properly admit undisputed facts and refused to produce its witnesses for deposition in response to proper and timely notices. Until such time that the Board compels Opposer to produce all relevant evidence and makes its witnesses available for deposition during discovery, Applicant respectfully requests that the Board suspends proceedings. Otherwise, Applicant will be denied evidence essential to rebutting Opposer's claim and to supporting Applicant's affirmative defenses.

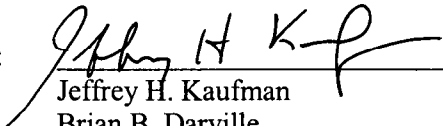
CONCLUSION

For all of the foregoing reasons, Applicant respectfully requests that the Board (1) compel Opposer to adequately respond to Applicant's discovery requests, namely Applicant's First Set of Interrogatories (Nos. 2, 4, 12, 13, 17, 18, 20, 23, and 24) and Applicant's First Document Request (Nos. 13, 14, 17, 18, 20 and 21); (2) compel Opposer to produce its witnesses for deposition; (3) compel Opposer to produce all unprivileged documents responsive to Applicant's Interrogatories and Requests for Production of Documents and Things; (4) deeming Opposer's responses to Applicant's Request for

Admissions Nos. 4-10 insufficient; (5) requiring Opposer to fully respond to Requests for Admissions Nos. 4-10; (6) directing Opposer to provide a log of all documents withheld on the ground of any privilege; and (7) suspending proceedings pending resolution of these Motions.

Respectfully submitted,

KONAMI CORPORATION

By: 
Jeffrey H. Kaufman
Brian B. Darville
Jason A. Cody
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MAIER & NEUSTADT, P.C.
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Attorneys for Applicant

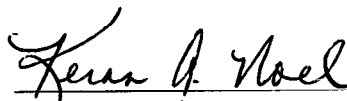
Date: November 26, 2003

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **APPLICANT'S MOTIONS TO COMPEL DISCOVERY & PRODUCTION OF WITNESSES, TO DETERMINE THE SUFFICIENCY OF ADMISSIONS & TO SUSPEND PROCEEDINGS AND SUPPORTING MEMORANDUM OF LAW, and APPENDIX IN SUPPORT OF APPLICANT'S MOTIONS (WITH EXHIBITS)** were served on counsel for Opposer, this 26th day of November, 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried, Esquire
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, NY 10019


Keran A. Noel

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
)	
Opposer,)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,)	
)	
Applicant.)	
_____)	

**APPLICANT'S APPENDIX OF MATERIALS IN SUPPORT OF
APPLICANT'S MOTIONS TO COMPEL DISCOVERY &
PRODUCTION OF WITNESSES, TO DETERMINE THE
SUFFICIENCY OF ADMISSIONS & TO SUSPEND PROCEEDINGS**

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**Counsel for Applicant
Konami Corporation**

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14. Applicant's Notices of Deposition of Mr. Michael McCracken, of Mr. J. Moses, and of Opposer UGO Networks, Inc.'s Rule 30(b)(6) Witnesses (including Exhibit A) (dated 10/23/2003)
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UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 1

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
)	
Opposer,)	
	)	Opposition No. 91/153,578
v.	)	Appln. Serial No.: 76/074,595
)	
KONAMI CORPORATION,)	
)	
Applicant.)	
)	

APPLICANT'S FIRST SET OF INTERROGATORIES

Applicant, Konami Corporation (hereafter "Applicant"), serves the following interrogatories under Rule 33, Fed.R.Civ.P., and Trademark Rules 2.116(a) and 2.120(d)(1), to be answered separately and fully in writing under oath by an officer or agent of Opposer, UGO Networks, Inc. (hereafter "Opposer"). Each separately numbered or lettered sub-part of each interrogatory requires a separate answer thereto. Furthermore, these interrogatories shall be deemed to be continuing to the fullest extent permitted by the Rules, and Opposer shall provide Applicant with any supplemental answers and additional information that are requested herein which shall become available to Opposer at a later date.

Opposer is notified that it should serve its answers to these Interrogatories on the undersigned Counsel for Applicant at its new offices effective January 6, 2003: OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C., 1940 Duke Street, Alexandria, Virginia 22314. The telephone and facsimile numbers remain the same.

DEFINITIONS AND INSTRUCTIONS

The following interrogatories and Applicant's accompanying requests are subject to the definitions set forth below:

A. The term "document" shall be construed in its broadest permissible sense, and shall include any and all means of conveying, storing, or memorializing information, whether in paper or other tangible physical form, or in electronic form, in the possession, custody, or control of Opposer. Each comment, or addition to, or deletion from, a document shall constitute a separate document.

B. If Opposer refuses to identify and/or produce any document(s) based upon a claim of confidentiality, privilege, or work product immunity, Opposer shall, in log form, (i) identify each document by its author, intended recipient(s), the date of the document, and its general subject matter, and (ii) set forth for each withheld document the particular basis for the refusal of production.

C. As used herein, the term "regarding" means relating or referring to, incorporating, comprising, touching upon, indicating, evidencing, affirming, denying, concerned with, relevant to, or likely to lead to admissible evidence concerning.

D. As used herein, the term "Opposer's Marks" shall refer to Opposer's registered UGO trademark that is the subject of U.S. Registration Nos. 2,450,661, 2,519,204 and 2,562,837 identified in Paragraph 1 of the Notice of Opposition.

E. As used herein, the term "Opposer's Services" shall refer to the services identified in U.S. Registration Nos. 2,450,661, 2,519,204 and 2,562,837, namely "providing information on computer game and video game hardware and software, music, film, television, comics, animation and sports via a global computer network; entertainment services, namely, providing online interactive games via a global computer network" in International Class 41; "computer services, namely, computerized online retail services in the field of boxed games and games related merchandise; dissemination of advertising for others via an online electronic communications network" in International Class 35; and "providing information on technology via a global computer

network; hosting Web sites of others on a computer server for a global computer network; designing and implementing network Web pages for others” in International Class 42, respectively.

F. As used herein, the term “Applicant’s Mark” shall mean the YU-GI-OH trademark of Application Serial No. 76/074,595.

G. As used herein, the phrases “Applicant’s Products” shall refer to products actually and/or intended to be advertised, promoted, and/or sold in connection with the YU-GI-OH trademark which is the subject of Application Serial.No. 76/074,595, namely, “computer products, namely, computer games programs; video game cartridges; video game CD-ROMS; video output game units; computer game CD-ROMS; video game programs; video game programs for use with television sets; video game machines for use with television sets; game-playing equipment, namely, joysticks and game controllers” in Class 9.

INTERROGATORIES

INTERROGATORY NO. 1

State the address of each location at which Opposer maintains a place of business for the promotion, sale, and distribution of Opposer’s Services promoted or sold in connection with Opposer’s Marks.

INTERROGATORY NO. 2

Identify (by name and title) each of Opposer’s supervisory employees responsible for the promotion, sale, and distribution of Opposer’s Services promoted and/or sold in connection with Opposer’s Marks.

INTERROGATORY NO. 3

State the date Opposer decided to adopt Opposer’s Marks.

INTERROGATORY NO. 4

Identify the person(s) who first conceived of Opposer’s Marks for use by Opposer.

INTERROGATORY NO. 5

Identify, by common commercial descriptive name, each service actually and/or intended to be offered for sale, advertised, and/or promoted by or on behalf of Opposer in connection with each of Opposer's Marks.

INTERROGATORY NO. 6

For each service identified in answer to Interrogatory No. 5, state the date of first use or anticipated date of first use anywhere, and describe the circumstances surrounding such first use.

INTERROGATORY NO. 7

For each service identified in answer to Interrogatory No. 5, state the date of first use or anticipated date of first use in commerce, and describe the circumstances surrounding such first use.

INTERROGATORY NO. 8

For each service identified in answer to Interrogatory No. 5, state, by calendar quarter, the dollar volume budgeted and expended by Opposer to promote Opposer's Marks in connection therewith.

INTERROGATORY NO. 9

For each service identified in answer to Interrogatory No. 5, state, by calendar quarter, the approximate income anticipated and received to date from sales of Opposer's Services in connection with each of Opposer's Marks.

INTERROGATORY NO. 10

Identify representative examples of each different promotional document and item used and being considered for use by Opposer in connection with the promotion and sale of Opposer's Services in connection with Opposer's Marks.

INTERROGATORY NO. 11

Identify all searches of any type conducted by or on behalf of Opposer in connection with its decision to adopt, use, or apply for Federal registration of each of Opposer's Marks.

INTERROGATORY NO. 12

State when Opposer first had knowledge of Applicant's use or registration of Applicant's Mark.

INTERROGATORY NO. 13

State whether Opposer considered the issue of, and/or received any opinions concerning, a likelihood of confusion between Applicant's Mark and any of Opposer's Marks.

INTERROGATORY NO. 14

Identify (by title, publisher, issue date, page number, and any other relevant designation), those printed and electronic publications in which Opposer has promoted or plans to promote Opposer's Services in connection with Opposer's Marks.

INTERROGATORY NO. 15

Identify (by name, date and location) any trade show or fair where Opposer has promoted or plans to promote its services in connection with any of Opposer's Marks.

INTERROGATORY NO. 16

Identify any market research (including surveys, studies, investigations and focus group inquiries) conducted by or on behalf of Opposer regarding any of Opposer's Marks.

INTERROGATORY NO. 17

Identify those persons having the most knowledge of any market research (including surveys, studies, investigations and focus group inquiries) conducted by or on behalf of Opposer regarding any of Opposer's Marks.

INTERROGATORY NO. 18

Identify each reported instance of actual confusion, mistake, or deception known to Opposer between Opposer's Services promoted or sold in connection with any of Opposer's Marks and Applicant's Products promoted or sold in connection with Applicant's Mark.

INTERROGATORY NO. 19

Identify any agreements (such as assignments, licenses, authorizations, permissions, or consents) entered into by Opposer regarding any of Opposer's Marks.

INTERROGATORY NO. 20

Identify the channels of distribution and the geographical areas of trade within which Opposer's Services are or are intended to be promoted and/or sold in connection with Opposer's Marks.

INTERROGATORY NO. 21

Identify each person or agency that has participated in the creation or distribution of advertisements or promotions in the United States for Opposer's Services in connection with any of Opposer's Marks, and the period of time during which each such person or agency has participated.

INTERROGATORY NO. 22

For each expert Opposer has retained to give testimony in this proceeding, provide the information required in Rule 26(a)(2)(B), Fed.R.Civ.P.

INTERROGATORY NO. 23

Identify the meaning and commercial impression of Opposer's Marks.

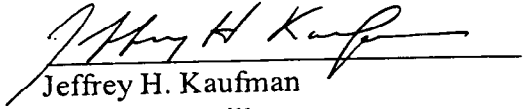
INTERROGATORY NO. 24

Identify each person who has supplied documents or information for, or who has participated in responding to, these interrogatories, Applicant's First Request for Production of Documents and Things and Applicant's First Requests for Admissions.

Respectfully submitted,

KONAMI CORPORATION

By:


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Fax: (703) 413-2220

Attorneys for Applicant

Dated: January 7, 2003

JHKBBD/dlb {I:\atty\JHK\Konami\1394-231349US-int.doc}

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **APPLICANT'S FIRST SET OF INTERROGATORIES** was served on counsel for Opposer, this 7th day of January, 2003 by sending same via First Class Mail, postage prepaid, to:

William M. Ried, Esquire
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019

Debra L. Bondurant
Debra L Bondurant

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 2

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
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Opposer,)	
)	Opposition No. 91/153,578
v.)	Appln. Serial No.: 76/074,595
)	
KONAMI CORPORATION,)	
)	
Applicant.)	
_____)	

**APPLICANT'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS AND THINGS**

Applicant, Konami Corporation ("Applicant") hereby requests, pursuant to Rule 34, Fed.R.Civ.P., and Trademark Rules 2.116(a) and 2.120(d)(2), that Opposer, UGO Networks, Inc., ("Opposer"), produce the documents and things listed below for inspection and copying, and that said production be made accompanying Opposer's service of its responses to this Request upon Counsel for Applicant at counsel's offices.

Opposer is notified that it should serve its responses to these Requests on the undersigned Counsel for Applicant at its new offices effective January 6, 2003: OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C., 1940 Duke Street, Alexandria, Virginia 22314. The telephone and facsimile numbers remain the same.

DEFINITIONS AND INSTRUCTIONS

A. The definitions and instructions contained in Applicant's First Set of Interrogatories (the "interrogatories") are incorporated herein by reference.

B. With respect to any document requested below for which a claim of privilege, work product or confidentiality is made, specify (in log form) the nature of the document, identify by name, address, title and business affiliation, the writer, the addressee and all recipients thereof, and set forth the general subject matter to which the document relates, and its date.

C. Opposer shall separately identify the Request by number pursuant to which document or thing is produced.

D. A written response to this Request is required pursuant to Rule 34, Fed.R.Civ.P.

REQUESTS

1. Produce representative specimens of the current and proposed advertising and promotional documents and electronic media bearing Opposer's Marks used or to be used by or on behalf of Opposer.

2. Produce those documents and things regarding the creation, selection, and adoption of each of Opposer's Marks by or on behalf of Opposer.

3. Produce those documents regarding any investigation such as a service mark, trademark, trade name, Internet name, or corporate name search concerning the adoption, use, or application for Federal registration of each of Opposer's Marks.

4. Produce those documents and things regarding the earliest use or anticipated first use anywhere, and the earliest use or anticipated first use in commerce, of each of Opposer's Marks by or on behalf of Opposer or any related company(ies).

5. Produce those documents and things demonstrating the type(s) of products and services in connection with which each of Opposer's Marks has been used or is proposed to be used.

6. Produce those documents regarding the geographical areas and channels of trade in which each of Opposer's Marks has been used or is proposed to be used.

7. Produce those documents regarding any assignment, consent, authorization, license or permission between Opposer and any individual(s) or entity(ies) to use any of Opposer's Marks including any modifications made thereto.

8. Produce representative specimens of each different item of advertising or promotional materials for Opposer's services offered or provided in connection with any of Opposer's Marks including the prototypes, drafts and sketches for said packaging and labeling, and those documents regarding the design and/or creation of said packaging and labeling.

9. Produce those documents regarding each printed and electronic media publication in which Opposer has advertised or promoted, is advertising or promoting, or plans to advertise or promote its services in connection with any of Opposer's Marks.

10. Produce those documents regarding the types of customers with whom Opposer does or intends to do business, and the ultimate consumers to whom Opposer offers or intends to offer Opposer's Services in connection with any of Opposer's Marks.

11. Produce those documents regarding the dollar value of Opposer's actual and/or projected sales of services provided in connection with each of Opposer's Marks since the date of first use of each of Opposer's Marks.

12. Produce those documents regarding the amount of money expended and/or budgeted by Opposer to promote services promoted or sold in connection with each of Opposer's Marks since the date of first use of each of Opposer's Marks.

13. Produce those documents regarding the date and circumstances under which Opposer became aware of the use or registration of Applicant's Mark.

14. Produce those documents regarding any action taken by Opposer in response to its awareness of Applicant's Mark.

15. Produce copies of any surveys, market research tests, demographic or consumer profile studies, and focus group inquiries regarding the ultimate purchasers or potential ultimate purchasers of Opposer's Services actually or intended to be sold, offered for sale, advertised or promoted under any of Opposer's Marks, including the results thereof.

16. Produce copies of any comparison studies, surveys, market research tests, and those documents regarding any of the foregoing, including the results thereof, concerning the services advertised, promoted, distributed, and sold in connection with any of Opposer's Marks and the products advertised, promoted, distributed, and sold in connection with Applicant's Mark, including, but not limited to, those relating to confusion or likelihood of confusion between Applicant's Products and Opposer's Services.

17. Produce those documents regarding any instance in which a person has been confused, mistaken, or deceived as to the source of Applicant's Products advertised, promoted, offered for sale, or sold in connection with Applicant's Mark, and the source of Opposer's Services advertised, promoted, offered for sale, or sold in connection with any of Opposer's Marks.

18. Produce those documents and things forming the basis for the denial, in whole or in part, with respect to each of Opposer's responses to Applicant's First Requests for Admissions.

19. For each expert Opposer intends to call to provide testimony in this proceeding, produce:

- a) any written report provided by said expert relating to the subject matter of this proceeding;
- b) a complete written statement of all opinions to be expressed by the expert in this proceeding, and the basis and reasons therefor;

c) all documents reflecting the data or other information considered by the expert in forming his/her opinions;

d) all exhibits to be used by the expert as a summary of or support for his/her opinions;

e) those documents stating the qualifications of the expert, such as would be reflected in a resume, curriculum vitae, biography, summary or otherwise;

f) a written list of all publications authored by the witness within the last ten years;

g) documents reflecting the compensation to be paid for the expert's preparation time and time taken to provide testimony; and

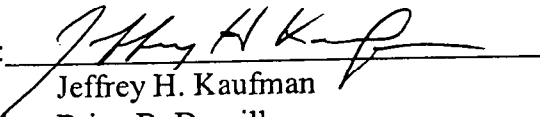
h) a written list of any other cases in which the witness has testified as an expert at trial, in an administrative proceeding or by deposition within the past four years.

20. Produce those documents regarding the appearance, pronunciation, meaning and commercial impression of Opposer's Marks.

21. Produce those documents, not otherwise requested herein, and referred to by Opposer in responding to Applicant's First Set of Interrogatories.

Respectfully submitted,

KONAMI CORPORATION

By: 
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Attorneys for Applicant

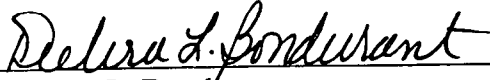
Date: January 7, 2003

JHK/BBD/dlb (I:\atty\JHK\Konami\1394-231349US-req.doc)

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **APPLICANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS** was served on counsel for Opposer, this 7th day of January, 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried, Esquire
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, NY 10019


Debra L. Bondurant

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 3

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91/153,578
	)	Appln. Serial No.: 76/074,595
)	
KONAMI CORPORATION,)	
)	
Applicant.)	
_____)	

APPLICANT'S FIRST REQUESTS FOR ADMISSIONS

Applicant, Konami Corporation ("Applicant") pursuant to Rule 36(a), Fed.R.Civ.P., and Trademark Rules 2.116(a), 2.120(h), hereby requests that Opposer, UGO Networks, Inc. ("Opposer"), admit the Requests stated below.

Opposer is notified that it should serve its responses to these Requests on the undersigned Counsel for Applicant at its new offices effective January 6, 2003: OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C., 1940 Duke Street, Alexandria, Virginia 22314. The telephone and facsimile numbers remain the same.

DEFINITIONS AND INSTRUCTIONS

A. The Definitions and Instructions forming a part of Applicant's First Set of Interrogatories are incorporated herein by reference.

B. Additionally, if any Request below is denied or objected to, in whole or in part, Opposer shall state in detail the reasons for the denial or objection.

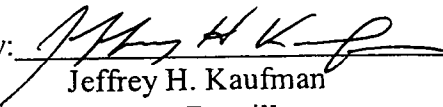
REQUESTS

1. Admit that a trademark search for at least one of Opposer's Marks has been conducted on Opposer's behalf.
2. Admit that a trademark search for at least one of Opposer's Marks has not been conducted on Opposer's behalf.
3. Admit that Opposer's Mark, UGO, stands for "Underground Online."
4. Admit that Opposer's Mark, UGO, is an initialism for "Underground Online."
5. Admit that Opposer's Mark, UGO, is an abbreviation for "Underground Online."
6. Admit that Opposer's Mark, UGO, is an acronym for "Underground Online."
7. Admit that Opposer's Mark, UGO, stands for "UnderGroundOnline."
8. Admit that Opposer's Mark, UGO, is an initialism for "UnderGroundOnline."
9. Admit that Opposer's Mark, UGO, is an abbreviation for "UnderGroundOnline."
10. Admit that Opposer's Mark, UGO, is an acronym for "UnderGroundOnline."
11. Admit that Opposer's Mark, UGO, is different in appearance from the appearance of Applicant's Mark.
12. Admit that Opposer's Mark, UGO, is different in pronunciation from the pronunciation of Applicant's Mark.
13. Admit that Opposer's Mark, UGO, has a different meaning from the meaning of Applicant's Mark.
14. Admit that Opposer's Mark, UGO, creates a different commercial impression than the commercial impression of Applicant's Mark.
15. Admit that Opposer does not depict its UGO Marks in Kanji characters.
16. Admit that Opposer has a website at the URL www.ugo.com/Default.asp.

17. Admit that attached as Exhibit 1 is a true and correct print out from Opposer's website at the URL www.ugo.com/Default.asp as it appeared on or about January 7, 2003.
18. Admit that at the top of the printout attached as Exhibit 1 appears the words "UGO.com, UndergroundOnline - The Air Max Q Super Power Sweepstakes."
19. Admit that near the top of the printout attached as Exhibit 1 Opposer's Mark UGO is shown and immediately adjacent to the UGO Mark appears, among other things, the words "UnderGroundOnline."

Respectfully submitted,

KONAMI CORPORATION

By: 
Jeffrey H. Kaufman
Brian B. Darville
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
Fax (703) 413-2220

Attorneys for Applicant

Date: January 7, 2003

JHK/BBD/dlb {I:\att\JHK\Konami\1394-231349US-adm.doc}

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **APPLICANT'S FIRST REQUESTS FOR ADMISSIONS** was served on counsel for Opposer, this 7th day of January, 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried, Esquire
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, NY 10019


Debra L. Bondurant

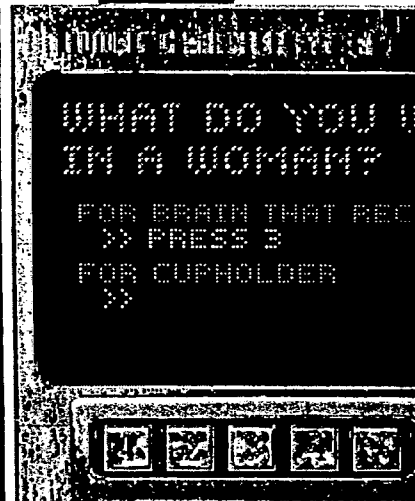


UNDERGROUNDONLINE

GAMES : FILM & TV : MUSIC : TECH : SPORTS : FREESTYLE : GIRLFRIENDS

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TOP STORY : **1 On Set** HAS ARRIVED



Punished

It's payback time as Wolverine takes on everybody's favorite comics mercenary...again.

Capt:

FEATURES

FILM&TV



Trial By Stone

We see if Jim Henson's *The Dark Crystal* stands the test of time.

GIRLFRIENDS



Visit Asia

If all you know about Ms. Argento is that she was in *XXX*, then click here for your own good.

GAMES



Iron Tight

Satisfy those interstellar urges with this review of the RTS, *Hegemonia: Legions of Iron*.

ALSO ON UGO



Game On

Think you have what it takes in the brutal world of *Deaf*? Check out our feature to win a free Xbox. You

UGO FEATURES



Slayer vs. Slayer

Buffy had faced many evils, but in Season 3, she met her match: Eliza Dushku! Get caught up here, and enter to win the series on DVD!

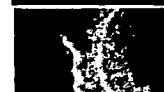
[Complete Listing of Recent Features](#)

GAMES FEATURES



Doom III preview
 Star Wars: Galaxies preview
 World of Warcraft preview
 Xbox Live revisited feature
 Tomb Raider: Angel of Darkness preview
 Tom Clancy's Splinter Cell review
 Sea Dogs 2 preview
 Metroid Prime review
 Freelancer preview
 TimeSplitters 2 review
 Age of Mythology review
 SimCity 4 preview
 Contra: Shattered Soldier

FILM/TV FEATURES



The Two Towers
 Nicole Kidman/Anna Paquin interviews
 Minority Report
 Darkness Falls
 Star Trek: Nemesis
 The Two Towers
 Harry Potter 2 interview
 Die Another Day
 Monsters Inc.
 Reign of Fire DVD
 LOTR: Fellowship extended edition



*First Name:

*Last Name:

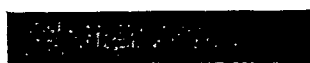
*e-mail:

*D.O.B. : 19

*Gender:

*Zip/Postal Code:

- ☐ Yes, I'd like to hear more about offers and promotions from UGO and its partners
- ☐ Send me e-mail from Nike about Nikelab
- ☐ Yes, sign me up for the UGO Newsletter!



review

Tom Clancys Rainbow Six 3:

Raven Shield preview

Resident Evil Online preview

Unreal 2: The Awakening preview

Grand Theft Auto: Vice City review

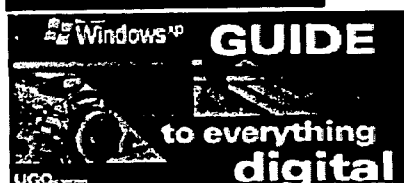
StarCraft: Ghost preview

Command and Conquer: Generals preview

Halo 2 preview



WINDOWS XP GUIDE



The Windows XP Guide to Everything Digital

Improve upon your use of digital technology with our feature focused on taking your passions to the next level. From digital imaging to music and video editing, it's all in this ever-updating guide.

MORE FEATURES

Tony Hawk interview

Windows XP guide

Data backup guide

Leonard Nimoy interview

Actiontec wireless review

Jump the Shark interview

Crucial PC2700 SDRAM review

The Ultimate PC guide

Mat Hoffman interview

ATI Radeon 9700 Pro review

Get Girls...Digitally guide

LL Cool J interview

The History of Battle Beasts feature

Celebrity Pranks feature

BACK TO THE BEACH



Back to the Beach

There's a New Wave in Surfer Cinema. Find out about the guys and girls who are storming the beach-video cameras in hand.

WIN FREE S



Win cool G City Gear!

We raided Rock away with tons can win... if you enough to ace c

Also. . .
Win The Two To soundtrack!

Win an Xbox an Adventures of P DVD!

FEATURED PERSONAL



VapidChick

Song or album that puts me in the mood:Nine Inch Nails' Closer to God. Maybe some track's from Vast's CD...

DEMO FREE GAMES



Knight Rider: The Game

The first official game based on the world famous TV series offers you the chance to try out all of KITT's extensive high-tech features.

Also. . .

HUMP DAY DIGEST



There's Scary, and There's Scary

More frightening: Freddy, or Kevin Smith working with the Wayanses? Find out in the Hump Day Digest.

DOWNLOA



Rainbow Six 3: Warcraft III: Re demo, 97.8MB

Harry Potter an of Secrets dem

Grand Theft Au trailer, 5MB

Metal Gear Soli trailer, 6MB

Lord of the Ring

Rainbow Six 3: Raven Shield
Warcraft 3: Reign of Chaos
Blasterball 2

Top 50 Game D

UGO VIDEO



The Izzys Rock New York

What do you get when you combine a rock band, a case of Cuervo and a bus full of hot models?

GAME RANKINGS

Tour our videogames article archive

Thanks to GameRankings, you can search for all the latest videogame reviews and previews on UGO.com and its contributing editors.

MORE FEATURES



Harry Potter and the Chamber of Secrets

If you are staying away from the second Harry Potter film because the first one fell short, Dobby has come to warn you: This one is better. Read our huge Harry Potter feature to find out why.

MORE FEAT



X-Men 2

So many mutant time, but we did deliver you que: answer from ou Vancouver to vi Men. Set tours, designs, and of trailers to boot.

PLANET ERUPTOR



Ashley and Kelly

Yet another reason why we support human cloning.

HEROMACHINE



So You Wanna Be A Hero?

Design your own superhero or uber-villain with our completely free HeroMachine character generator.

UGO SHOPPING



Shop Smarter!

Compare prices on all the hottest games, DVDs, action figures, electronics and more! Spider-Man's coming. Super Mario Sunshine is already here. Get yours at rock bottom prices here!

UGO ANIM



The God & Devil Happy Tree Frie Thugs on Film Behind the Mus Japanese Anime Absolute Zero Zombie College This Modern Wc Heavy Metal Gu

Channels:

Games . Film & TV . Music . Tech . Sports . Freestyle . Girlfriends . Downloads . Cheats . Showcase . Freestuff

Features:

HeroMachine . Humpday Digest . Napster Alternatives . Schwarzenegger Prank Calls . Archived Features

Video and Animation:

Celebrities . Rock Stars . Models . On Location . The God & Devil Show . Thugs on Film . Absolute Zero . This Modern World . Heavy Metal Guy . Poker Night . Happy Tree Friends . Zombie College . Hard Drinkin' Lincoln

Services:

The UGO Store . Comparative Shopping . Buy U Calendar . Forums . Personals . Demo FREE Gan UGO Newsletter . Unsubscribe

About UGO Networks, Inc:

Advertise on UGO . Corporate Information . Con UGO . Become a UGO Affiliate

Miscellaneous:

Copyright . Disclaimer . Privacy Policy . Tools

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 4

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

From: Jeffrey Kaufman
To: "nsnitkovsky@willkie.com".GWIA.OSGW
Date: 2/5/03 9:40AM
Subject: Re: UGO v. Konami

Natasha:

Thanks for your e-mail and phone call yesterday.

Konami will consent to a 30-day extension of the time for UGO Networks to respond to the discovery requests. We ask, however, that UGO Networks, in turn, grant Konami a 30-day extension to answer the discovery your recently sent us, and that the parties agree that UGO Networks will consent to an extension of the discovery period (if Konami later so requests), of at least 30-days.

Please confirm that the above is acceptable.

Finally, as I mentioned when we spoke, this may be a good time to see if this case can be settled, before either party spends too much time on discovery responses. Perhaps I can speak with your colleague to see his thoughts on a settlement.

Jeff Kaufman

Jeffrey H. Kaufman
Oblon, Spivak
NEW ADDRESS as of January 6, 2003:
1940 Duke Street, Alexandria, VA 22314 USA
voice 1-703-412-6404 fax 1-703-413-2220
jkaufman@oblon.com www.oblon.com

>>> "Snitkovsky, Natasha" <nsnitkovsky@willkie.com> 02/04/03 02:08PM >>>
Dear Mr. Kaufman,

Further to our telephone conversation yesterday, please confirm whether your client is agreeable to granting UGO an extension of 30 days to respond to your discovery requests, making the new deadline March 8, 2003.

We appreciate your cooperation in this matter and look forward to hearing from you.

Very truly yours,

Natasha Snitkovsky
Willkie Farr & Gallagher
787 Seventh Avenue
New York, NY 10019
212-728-8180
212-728-9180 (fax)
nsnitkovsky@willkie.com

IMPORTANT NOTICE: This e-mail message is intended to be received only by persons entitled to receive the confidential information it may contain. E-mail messages to clients of Willkie Farr & Gallagher presumptively contain information that is confidential and legally privileged; e-mail messages to non-clients are normally confidential and may also be legally privileged. Please do not read, copy, forward or store this message unless you are an intended recipient of it. If you have received this message in error, please forward it back to the sender and delete it completely from your computer system.

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 5

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

WILLKIE FARR & GALLAGHER

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

February 5, 2003

VIA FACSIMILE (703) 413-2220

Mr. Jeffrey H. Kaufman
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

Re: UGO Networks, Inc. v. Konami Corporation
Opposition No. 91/153,578 against YU-GI-OH Design Mark in
Stylized Kanji Characters, Application Serial No. 76/074,595


Dear Jeffrey:

Pursuant to our recent telephone conversations and email correspondence, we confirm that we have agreed that:

- the deadline for UGO to respond to Konami's discovery requests is extended by thirty (30) days to March 8, 2003;
- the deadline for Konami to respond to UGO's discovery requests is extended by thirty (30) days to March 30, 2003; and
- upon either party's later request, the parties will stipulate to extend the discovery and testimony periods by at least 30 days.

Thank you for your cooperation in this matter.

Very truly yours,


Natasha Snitkovsky

000930.10006/1162984.1

NEW YORK WASHINGTON, DC PARIS LONDON MILAN ROME FRANKFURT BRUSSELS

TOTAL P.02

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 6

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

WILLKIE FARR & GALLAGHER

2 51344 MD-1044-224201-33
WILLIAM M. RIED
212 728 8729
wried@willkie.com

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

March 7, 2003

VIA FACSIMILE (703) 413-2220

Jeffrey H. Kaufman, Esq.
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

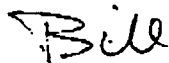
Re: UGO Networks, Inc. v. Konami Corporation
Opposition No. 91/153,578 against YU-GI-OH Design Mark in
Stylized Kanji Characters, Application Serial No. 76/074,595

Dear Jeff:

This will confirm that you agreed by telephone this afternoon to extend the deadline for UGO to respond to Konami's interrogatories, request for production and request for admissions for seven (7) days from March 7 to March 14, 2003;

Thank you for your cooperation in this matter.

Very truly yours,



William M. Ried

MAR-07-2003 15:31

46-101 OPP-4650

212 728 8111 P.01/02
FAX TRANSMISSION**WILLKIE FARR & GALLAGHER**

Date:

Time:

Total number of pages (including this page):

Please include Client/Matter No. below

FROM: William M. Ried

Room No.: 4652

Phone No.: (212) 728-8729

TO: Jeffrey H. Kaufman, Esq.

Fax No.:

(703) 413-2220

Telephone No.: (703) 412-6404

City:

State:

J.K.

MAR 07 2003

OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.

Confidentiality Note:

The information contained in this facsimile ("fax") transmission is sent by an attorney or his/her agent, is intended to be confidential and for the use of only the individual or entity to which it is addressed. The information may be protected by attorney/client privilege, work product immunity, or other legal rules. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that any retention, dissemination, disclosure, distribution, copying, or other use of this fax is strictly prohibited. If you have received this fax in error, please notify us immediately by telephone in order to arrange for the destruction of the fax or its return to us at our expense. THANK YOU.

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UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 7

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91/153,578
	)	Appln. Serial No.: 76/074,595
KONAMI CORPORATION,)	
)	
Applicant.)	
<hr/>		

OPPOSER'S RESPONSE TO APPLICANT'S FIRST SET OF INTERROGATORIES

Opposer, UGO NETWORKS, INC. (hereafter "Opposer"), hereby responds to Applicant's first set of interrogatories, dated January 7, 2003, as follows:

GENERAL OBJECTIONS

Opposer objects to Applicant's interrogatories to the extent they are overbroad and unduly burdensome. [This objection hereinafter will be referred to as the "Overbroad Objection."]

Opposer further objects to Applicant's interrogatories to the extent they are vague, ambiguous or lack sufficient precision to permit a response by, for example, including no time frame. [This objection hereinafter will be referred to as the "Ambiguity Objection."]

Opposer further objects to Applicant's interrogatories to the extent they seek information not relevant to the issues in this proceeding or reasonably calculated to lead to the discovery of admissible evidence, including but not limited to, requests that seek information relating to transactions outside of the United States. [This objection hereinafter will be referred to as the "Relevance Objection."]

Opposer further objects to Applicant's interrogatories to the extent they seek information that is confidential, comprises trade secrets or otherwise is proprietary in nature, the disclosure of which would cause or could cause harm to Opposer. Such information will be provided only upon entry of a protective order sufficient to protect the proprietary nature of such information. [This objection hereinafter will be referred to as the "Proprietary Information Objection."]

Opposer further objects to Applicant's interrogatories to the extent they seek information that is protected by the attorney-client privilege or work product doctrine, or that is otherwise privileged or protected from disclosure. [This objection hereinafter will be referred to as the "Privilege Objection."]

Opposer objects to each definition or instruction to the extent its purports to impose obligations beyond those set forth in the Federal Rules of Civil Procedure and the Rules of Practice. Opposer will respond only as provided in the Federal Rules of Civil Procedure and the Rules of Practice relating to discovery.

Finally, Opposer objects to Applicant's request that Opposer produce a log in connection with any document(s) Opposer refuses to identify and/or produce based upon a claim of confidentiality, privilege, or work product immunity. Opposer cannot produce the identifying information requested by Applicant without violating the relevant confidentiality, privilege or work product immunity. As such, Opposer will in good faith attempt to respond to Applicant's requests by identifying only responsive, non-privileged, non-work product documents which are relevant to the respective requests and currently in its possession.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1

State the address of each location at which Opposer maintains a place of business for the promotion, sale, and distribution of Opposer's Services promoted or sold in connection with Opposer's Marks.

Response No. 1

UGO Networks, Inc., 670 Broadway 2nd Floor NY, NY 10012.

INTERROGATORY NO. 2

Identify (by name and title) each of Opposer's supervisory employees responsible for the promotion, sale, and distribution of Opposer's Services promoted and/or sold in connection with Opposer's Marks.

Response No. 2

J Moses, President and CEO; Michael McCracken, Chief Financial Officer and Executive Vice President, Corporate Development; Alexander Loucopoulos, Vice President, Corporate Development.

INTERROGATORY NO. 3

State the date Opposer decided to adopt Opposer's Marks.

Response No. 3

Proprietary Information Objection and Relevance Objection as to Opposers decision-making process. Without waiving these objections, Opposer's predecessor in interest commenced use of the mark UGO at least as early as March 1996.

INTERROGATORY NO. 4

Identify the person(s) who first conceived of Opposer's Marks for use by Opposer.

Response No. 4

Ambiguity Objection to the extent it is unclear whether this interrogatory seeks to identify the person(s) who first conceived of the UGO mark or those who first considered Opposer's acquisition and/or current use of the mark.

INTERROGATORY NO. 5

Identify, by common commercial descriptive name, each service actually and/or intended to be offered for sale, advertised, and/or promoted by or on behalf of Opposer in connection with each of Opposer's Marks.

Response No. 5

Overbroad Objection. Proprietary Information Objection as to future intentions. Without waiving these objections, Opposer responds, in summary, that Opposer uses Opposer's Marks in connection with:

- 1) providing information on computer game and video game hardware and software, music, film, television, comics, animation, technology and sports via the Internet, promoting and reviewing computer games, computer game programs and accessories, and video games, and providing entertainment services, including games portals, video game community sites, fan sites, online games and discussion forums via the Internet;
- 2) providing computer services, including computerized online retail services in the field of boxed games and game-related merchandise, selling game software and consoles, and disseminating advertising for others via the Internet; and
- 3) hosting the Web sites of others on the Internet, and designing and implementing network Web pages for others.

INTERROGATORY NO. 6

For each service identified in answer to Interrogatory No. 5, state the date of first use or anticipated date of first use anywhere, and describe the circumstances surrounding such first use.

Response No. 6

Opposer has used Opposer's Marks anywhere in connection with:

- 1) providing information on computer game and video game hardware and software, music, film, television, comics, animation, technology and sports via the Internet, promoting and reviewing computer games, computer game programs and accessories, and video games, and providing entertainment services, including games portals, video game community sites, fan sites, online games and discussion forums via the Internet since at least as early as March 1996;
- 2) providing computer services, including computerized online retail services in the field of boxed games and game-related merchandise, selling game software and consoles, and disseminating advertising for others via the Internet since at least as early as March 1996; and
- 3) hosting the Web sites of others on the Internet, and designing and implementing network Web pages for others since at least as early as December 1996.

INTERROGATORY NO. 7

For each service identified in answer to Interrogatory No. 5, state the date of first use or anticipated date of first use in commerce, and describe the circumstances surrounding such first use.

Response No. 7

Opposer has used Opposer's Marks in commerce in connection with:

- 1) providing information on computer game and video game hardware and software, music, film, television, comics, animation, technology and sports via the Internet, promoting and reviewing computer games, computer game programs and accessories, and video games, and providing entertainment services, including games portals, video game community sites, fan sites, online games and discussion forums via the Internet since at least as early as June 1998;
- 2) providing computer services, including computerized online retail services in the field of boxed games and game-related merchandise, selling game software and consoles, and disseminating advertising for others via the Internet since at least as early as June 1998; and
- 3) hosting the Web sites of others on the Internet, and designing and implementing network Web pages for others since at least as early as December 1996.

INTERROGATORY NO. 8

For each service identified in answer to Interrogatory No. 5, state, by calendar quarter, the dollar volume budgeted and expended by Opposer to promote Opposer's Marks in connection therewith.

Response No. 8

Proprietary Information Objection. Upon entry of a suitable protective order, Opposer will provide information responsive to this interrogatory that is relevant to this proceeding.

INTERROGATORY NO. 9

For each service identified in answer to Interrogatory No. 5, state, by calendar quarter, the approximate income anticipated and received to date from sales of Opposer's Services in connection with each of Opposer's Marks.

Response No. 9

Proprietary Information Objection. Upon entry of a suitable protective order, Opposer will provide information responsive to this interrogatory that is relevant to this proceeding. Without waiving this objection, Opposer notes that documents it is making available for Applicant's inspection and copying in response to Applicant's document request served simultaneously herewith reveal that, as of March 2001, Opposer had raised a total of approximately eighty million dollars (\$80,000,000) in funding and had revenues during the year 2000 in excess of fifteen million dollars (\$15,000,000).

INTERROGATORY NO. 10

Identify representative examples of each different promotional document and item used and being considered for use by Opposer in connection with the promotion and sale of Opposer's Services in connection with Opposer's Marks.

Response No. 10

Overbroad Objection. Proprietary Information Objection as to future plans. Without waiving these objections, Opposer will produce samples of promotional documents and items actually used in response to Applicant's document request filed simultaneously with its interrogatories.

INTERROGATORY NO. 11

Identify all searches of any type conducted by or on behalf of Opposer in connection with its decision to adopt, use, or apply for federal registration of each of Opposer's Marks.

Response No. 11

Privilege Objection. Relevance Objection as Opposer's decision to adopt Opposer's Marks is not in issue in this proceeding. Without waiving these objections, Opposer will produce copies of relevant searches in response to Applicant's request for production filed simultaneously with its interrogatories.

INTERROGATORY NO. 12

State when Opposer first had knowledge of Applicant's use or registration of Applicant's Mark.

Response No. 12

Ambiguity Objection to the extent that Opposer is not presently aware of Applicant's registration of Applicant's Mark. As to Applicant's use of Applicant's Mark, Opposer became aware of such use at least as early as September 1, 2001.

INTERROGATORY NO. 13

State whether Opposer considered the issue of, and/or received any opinions concerning, a likelihood of confusion between Applicant's Mark and any of Opposer's Marks.

Response No. 13

Privilege Objection. Without waiving this objection, Opposer's notice of opposition in this proceeding states Opposer's position regarding the likelihood of confusion between Applicant's Mark and Opposer's Marks.

INTERROGATORY NO. 14

Identify (by title, publisher, issue date, page number, and any other relevant designation), those printed and electronic publications in which Opposer has promoted or plans to promote Opposer's Services in connection with Opposer's Marks.

Response No. 14

Overbroad Objection. Proprietary Information Objection as to Opposer's future plans. Without waiving these objections, Opposer will produce samples of such publications responsive to Applicant's request for production filed simultaneously with its interrogatories.

INTERROGATORY NO. 15

Identify (by name, date and location) any trade show or fair where Opposer has promoted or plans to promote its services in connection with any of Opposer's Marks.

Response No. 15

Overbroad Objection. Proprietary Information Objection as to future plans. Without waiving these objections, Opposer will produce non-privileged materials identifying trade shows and fairs at which Opposer has promoted its services.

INTERROGATORY NO. 16

Identify any market research (including surveys, studies, investigations and focus group inquiries) conducted by or on behalf of Opposer regarding any of Opposer's Marks.

Response No. 16

Overbroad Objection. Privilege Objection. Without waiving these objections, Opposer will produce non-privileged materials relating to market research pertaining to Opposer's Marks that are relevant to this proceeding responsive to Applicant's request for production filed simultaneously with its interrogatories.

INTERROGATORY NO. 17

Identify those persons having the most knowledge of any market research (including surveys, studies, investigations and focus group inquiries) conducted by or on behalf of Opposer regarding any of Opposer's Marks.

Response No. 17

See response No. 2, supra.

INTERROGATORY NO. 18

Identify each reported instance of actual confusion, mistake, or deception known to Opposer between Opposer's Services promoted or sold in connection with any of Opposer's Marks and Applicant's Products promoted or sold in connection with Applicant's Mark.

Response No. 18

Ambiguity Objection as to the definition of "reported."

INTERROGATORY NO. 19

Identify any agreements (such as assignments, licenses, authorizations, permissions, or consents) entered into by Opposer regarding any of Opposer's Marks.

Response No. 19

Overbroad Objection. Relevance Objection. Privilege Objection. Proprietary Information Objection. Without waiving these objections, upon entry of a suitable protective order, Opposer will produce copies of the agreement concerning its acquisition of Opposer's Marks and samples of co-branding agreements with its approximately five hundred affiliated companies that are relevant to this proceeding.

INTERROGATORY NO. 20

Identify the channels of distribution and the geographical areas of trade within which Opposer's Services are or are intended to be promoted and/or sold in connection with Opposer's Marks.

Response No. 20

Ambiguity Objection. Proprietary Information Objection as to future plans. Relevance Objection as to use outside the United States. Without waiving these objections, Opposer responds that its services have been and are distributed via the Internet throughout the United States and the rest of the world. UGO's network has reached up to over 10 million unique visitors in a single month.

INTERROGATORY NO. 21

Identify each person or agency that has participated in the creation or distribution of advertisements or promotions in the United States for Opposer's Services in connection with any of Opposer's Marks, and the period of time during which each such person or agency has participated.

Response No. 21

Overbroad Objection. Without waiving this objection, Opposer responds that Bender, Goldman & Helper, a public relations firm, has participated in the creation and distribution of advertisements and promotions in the United States for Opposer's Services in connection with Opposer's Marks.

INTERROGATORY NO. 22

For each expert Opposer has retained to give testimony in this proceeding, provide the information required in Rule 26(a)(2)(B), Fed.R.Civ.P.

Response No. 22

Opposer has not at this time retained experts to testify in this proceeding.

INTERROGATORY NO. 23

Identify the meaning and commercial impression of Opposer's Marks.

Response No. 23

Ambiguity Objection as to the meaning of "meaning and commercial impression." Without waiving this objection, Opposer's Marks have come to signify Opposer and Opposer's goods and services to a broad community of Internet users. For example, in May 2001, Opposer won *Revolution Magazine's* award for Best Online PR, and was a finalist in *Revolution Magazine's* Best Online Content category. Opposer also has received *Inside PR's* Creativity in Public Relations award for Best Program in the Entertainment Sector, and Tribeca Film Productions' Rulers Edge award for Best New Marketing Campaign.

INTERROGATORY NO. 24

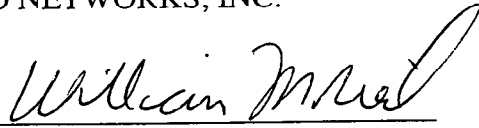
Identify each person who has supplied documents or information for, or who has participated in responding to, these interrogatories, Applicant's First Request for Production of Documents and Things and Applicant's First Requests for Admissions.

Response No. 24

J Moses, President and CEO; Michael McCracken, Chief Financial Officer and Executive Vice President, Corporate Development; Alexander Loucopoulos, Vice President, Corporate Development; Sabina Sudan, outside consultant; Linda Wright, Assistant; Jerry Lyons, former Chief Operations Officer of UGO Networks, Inc.

UGO NETWORKS, INC.

By: _____



William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, NY 10019-6099
Phone: (212) 728-8729
Fax: (212) 728-8111

Attorneys for Opposer

Date: March 14, 2003

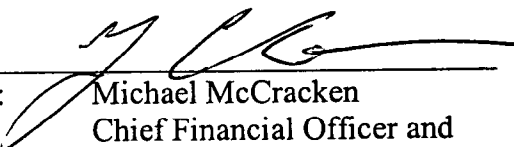
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CERTIFICATION

I certify that the statements made in the foregoing **RESPONSE TO APPLICANT'S FIRST SET OF INTERROGATORIES** are true. I am aware that, if any of the foregoing statements are willfully false, I am subject to punishment for contempt of court.

UGO NETWORKS, INC.

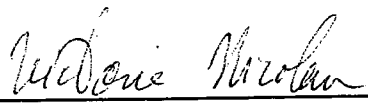
Dated: March 14, 2003

By: 
Its: Michael McCracken
Chief Financial Officer and
Executive Vice President

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **RESPONSE TO APPLICANT'S FIRST SET OF INTERROGATORIES** was served on counsel for Applicant, this 14th day of March, 2003 by sending same via Federal Express to:

Jeffrey H. Kaufman
Brian B. Darville
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
Fax (703) 413-2220



Victoria Nicolau

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 8

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91/153,578
	)	Appln. Serial No.: 76/074,595
)	
KONAMI CORPORATION,)	
)	
Applicant.)	
<hr/>		

OPPOSER'S RESPONSE TO APPLICANT'S FIRST DOCUMENT REQUEST

Opposer, UGO NETWORKS, INC. ("Opposer"), hereby responds to Applicant's first request for production of documents and things, dated January 7, 2003, as follows:

GENERAL OBJECTIONS

Opposer objects to Applicant's requests to the extent they are overbroad and unduly burdensome. [This objection hereinafter will be referred to as the "Overbroad Objection."]

Opposer further objects to Applicant's requests to the extent they are vague, ambiguous or lack sufficient precision to permit a response by, for example, including no time frame. [This objection hereinafter will be referred to as the "Ambiguity Objection."]

Opposer further objects to Applicant's requests to the extent they seek documents not relevant to the issues in this proceeding or reasonably calculated to lead to the discovery of admissible evidence. [This objection hereinafter will be referred to as the "Relevance Objection."]

Opposer further objects to Applicant's requests to the extent they seek documents already within the possession of Applicant or which are available to Applicant from public sources. [This objection hereinafter will be referred to as the "Public Source Objection."]

Opposer further objects to Applicant's requests to the extent they seek documents that are confidential, comprise trade secrets or otherwise are proprietary in nature, the disclosure of which would cause or could cause harm to Opposer. Such information will be provided only upon entry of a protective order sufficient to protect the proprietary nature of such information. [This objection hereinafter will be referred to as the "Proprietary Information Objection."]

Opposer further objects to Applicant's requests to the extent they seek the production of documents that contain material protected by the attorney-client privilege, that constitute attorney work product or that otherwise are privileged or protected from disclosure, and will not produce such documents. [This objection hereinafter will be referred to as the "Privilege Objection."]

Opposer objects to each definition or instruction to the extent it purports to impose obligations beyond those set forth in the Federal Rules of Civil Procedure and the Rules of Practice. Opposer will respond only as required by the Federal Rules of Civil Procedure and the Rules of Practice relating to discovery.

Finally, Opposer objects to Applicant's request that Opposer produce a log in connection with any document(s) for which a claim of confidentiality, privilege or work product immunity is made. Opposer cannot produce the identifying information requested by Applicant without violating the relevant confidentiality, privilege, or work product immunity. As such, Opposer will in good faith attempt to respond to Applicant's requests only by producing responsive, non-

privileged, non-work product documents which are relevant to the respective requests and currently in its possession.

RESPONSES

1. Produce representative specimens of the current and proposed advertising and promotional documents and electronic media bearing Opposer's Marks used or to be used by or on behalf of Opposer.

Response No. 1

Proprietary Information Objection as to future advertising and promotional documents. Without waiving this objection, Opposer will produce non-privileged, representative specimens of such materials.

2. Produce those documents and things regarding the creation, selection, and adoption of each of Opposer's Marks by or on behalf of Opposer.

Response No. 2

Overbroad Objection. Privilege Objection. Without waiving these objections, Opposer will produce non-privileged documents in its possession that are responsive to this request.

3. Produce those documents regarding any investigation such as a service mark, trademark, trade name, Internet name, or corporate name search concerning the adoption, use, or application for Federal registration of each of Opposer's Marks.

Response No. 3

Overbroad Objection. Privilege Objection. Without waiving these objections, Opposer will produce non-privileged documents in its possession that are responsive to this request.

4. Produce those documents and things regarding the earliest use or anticipated first use anywhere, and the earliest use or anticipated first use in commerce, of each of Opposer's

Marks by or on behalf of Opposer or any related company(ies).

Response No. 4

Proprietary Information Objection as to future anticipated use. Without waiving this objection, and upon entry of a suitable protective order, Opposer will produce such documents as are relevant to this proceeding.

5. Produce those documents and things demonstrating the type(s) of products and services in connection with which each of Opposer's Marks has been used or is proposed to be used.

Response No. 5

Proprietary Information Objection. Without waiving this objection, Opposer will produce responsive, non-privileged documents.

6. Produce those documents regarding the geographical areas and channels of trade in which each of Opposer's Marks has been used or is proposed to be used.

Response No. 6

Overbroad Objection. Proprietary Information Objection. Relevance Objection as to channels of trade outside the United States. Without waiving these objections, Opposer will produce responsive, non-privileged documents.

7. Produce those documents regarding any assignment, consent, authorization, license or permission between Opposer and any individual(s) or entity(ies) to use any of Opposer's Marks including any modifications made thereto.

Response No. 7

Relevance Objection as to assignments or licenses outside the United States. Overbroad Objection. Proprietary Information Objection. Without waiving these objections and upon entry of a suitable protective order, Opposer will produce such responsive documents as are relevant to this proceeding.

8. Produce representative specimens of each different item of advertising or promotional materials for Opposer's services offered or provided in connection with any of Opposer's Marks including the prototypes, drafts and sketches for said packaging and labeling, and those documents regarding the design and/or creation of said packaging and labeling.

Response No. 8

Overbroad Objection. Proprietary Information Objection. Objection to the extent this request is duplicative of Request No. 1. Without waiving these objections, Opposer will produce samples of responsive documents.

9. Produce those documents regarding each printed and electronic media publication in which Opposer has advertised or promoted, is advertising or promoting, or plans to advertise or promote its services in connection with any of Opposer's Marks.

Response No. 9

Overbroad Objection. Proprietary Information Objection as to future promotional plans. Without waiving these objections, Opposer will produce samples of responsive documents.

10. Produce those documents regarding the types of customers with whom Opposer does or intends to do business, and the ultimate consumers to whom Opposer offers or intends to offer Opposer's Services in connection with any of Opposer's Marks.

Response No. 10

Overbroad Objection. Proprietary Information Objection as to future plans. Without waiving these objections, Opposer will produce samples of responsive documents.

11. Produce those documents regarding the dollar value of Opposer's actual and/or projected sales of services provided in connection with each of Opposer's Marks since the date of first use of each of Opposer's Marks.

Response No. 11

Overbroad Objection. Privilege Objection. Proprietary Information Objection as to future promotional plans. Without waiving these objections, Opposer will produce samples of responsive, non-privileged documents.

12. Produce those documents regarding the amount of money expended and/or budgeted by Opposer to promote services promoted or sold in connection with each of Opposer's Marks since the date of first use of each of Opposer's Marks.

Response No. 12

Overbroad Objection. Proprietary Information Objection as to future plans. Without waiving these objections, Opposer will produce samples of responsive documents.

13. Produce those documents regarding the date and circumstances under which Opposer became aware of the use or registration of Applicant's Mark.

Response No. 13

Privilege Objection. Relevance Objection.

14. Produce those documents regarding any action taken by Opposer in response to its awareness of Applicant's Mark.

Response No. 14

Public Source Objection. Privilege Objection. Relevance Objection, in that any action or inaction of Opposer in regard to Applicant's use of Applicant's Mark is not relevant to this proceeding.

15. Produce copies of any surveys, market research tests, demographic or consumer profile studies, and focus group inquiries regarding the ultimate purchasers or potential ultimate purchasers of Opposer's Services actually or intended to be sold, offered for sale, advertised or promoted under any of Opposer's Marks, including the results thereof.

Response No. 15

Proprietary Information Objection. Privilege Objection. Without waiving these objections, Opposer will produce such documents as are relevant to this proceeding.

16. Produce copies of any comparison studies, surveys, market research tests, and those documents regarding any of the foregoing, including the results thereof, concerning the services advertised, promoted, distributed, and sold in connection with any of Opposer's Marks and the products advertised, promoted, distributed, and sold in connection with Applicant's Mark, including, but not limited to, those relating to confusion or likelihood of confusion between Applicant's Products and Opposer's Services.

Response No. 16

Proprietary Information Objection. Privilege Objection. Without waiving these objections, Opposer will produce responsive, non-privileged documents.

17. Produce those documents regarding any instance in which a person has been confused, mistaken, or deceived as to the source of Applicant's Products advertised, promoted, offered for sale, or sold in connection with Applicant's Mark, and the source of Opposer's

Services advertised, promoted, offered for sale, or sold in connection with any of Opposer's Marks.

Response No. 17

Opposer will produce any such documents in its possession.

18. Produce those documents and things forming the basis for the denial, in whole or in part, with respect to each of Opposer's responses to Applicant's First Requests for Admissions.

Response No. 18

Overbroad Objection. Ambiguity Objection. In addition to these objections, Opposer points out that it has as yet received no discovery from Applicant and anticipates that such discovery will provide support for some of these denials.

19. For each expert Opposer intends to call to provide testimony in this proceeding, produce:

- a) any written report provided by said expert relating to the subject matter of this proceeding;
- b) a complete written statement of all opinions to be expressed by the expert in this proceeding, and the basis and reasons therefor;
- c) all documents reflecting the data or other information considered by the expert in forming his/her opinions;
- d) all exhibits to be used by the expert as a summary of or support for his/her opinions;
- e) those documents stating the qualifications of the expert, such as would be reflected in a resume, curriculum vitae, biography, summary or otherwise;

f) a written list of all publications authored by the witness within the last ten years;

g) documents reflecting the compensation to be paid for the expert's preparation time and time taken to provide testimony; and

h) a written list of any other cases in which the witness has testified as an expert at trial, in an administrative proceeding or by deposition within the past four years.

Response No. 19

Overbroad Objection. Privilege Objection. Without waiving these objections, Opposer responds that it has not yet retained experts to testify in this proceeding.

20. Produce those documents regarding the appearance, pronunciation, meaning and commercial impression of Opposer's Marks.

Response No. 20

Ambiguity Objection as to what manner of document is identified by this request. Without waiving this objection, Opposer will do its best to produce responsive, non-privileged documents.

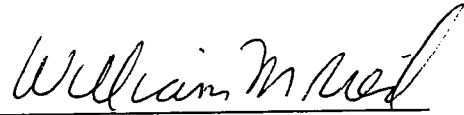
21. Produce those documents, not otherwise requested herein, and referred to by Opposer in responding to Applicant's First Set of Interrogatories.

Response No. 21

Overbroad Objection.

UGO NETWORKS, INC.

By: _____



William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, NY 10019-6099
Phone: (212) 728-8729
Fax: (212) 728-8111

Attorneys for Opposer

Date: March 14, 2003

000930.10006/1150485.5

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **OPPOSER'S RESPONSE TO APPLICANT'S FIRST DOCUMENT REQUEST** was served on counsel for Applicant, this 14th day of March, 2003, by sending same via Federal Express to:

Jeffrey H. Kaufman
Brian B. Darville
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
Fax (703) 413-2220



Victoria Nicolau

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 9

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,)

Opposer,)

v.)

KONAMI CORPORATION,)

Applicant.)

Opposition No. 91/153,578

Appln. Serial No.: 76/074,595

OPPOSER'S RESPONSE TO APPLICANT'S REQUEST FOR ADMISSIONS

Opposer, UGO NETWORKS, INC. ("Opposer"), hereby responds to Applicant's first request for admissions, dated January 7, 2003, as follows:

GENERAL OBJECTIONS

Opposer objects to Applicant's requests to the extent they are overbroad and unduly burdensome. [This objection hereinafter will be referred to as the "Overbroad Objection."]

Opposer further objects to Applicant's requests to the extent they are vague, ambiguous or lack sufficient precision to permit a response by, for example, including no time frame. [This objection hereinafter will be referred to as the "Ambiguity Objection."]

Opposer further objects to Applicant's requests to the extent they seek documents not relevant to the issues in this proceeding or reasonably calculated to lead to the discovery of admissible evidence. [This objection hereinafter will be referred to as the "Relevance Objection."]

Opposer further objects to Applicant's requests to the extent they seek documents already within the possession of Applicant or which are available to Applicant from public sources. [This objection hereinafter will be referred to as the "Public Source Objection."]

Opposer further objects to Applicant's requests to the extent they seek documents that are confidential, comprise trade secrets or otherwise are proprietary in nature, the disclosure of which would cause or could cause harm to Opposer. Such information will be provided only upon entry of a protective order sufficient to protect the proprietary nature of such information. [This objection hereinafter will be referred to as the "Proprietary Information Objection."]

Opposer further objects to Applicant's requests to the extent they seek the production of documents that contain material protected by the attorney-client privilege, that constitute attorney work product or that otherwise are privileged or protected from disclosure, and will not produce such documents. [This objection hereinafter will be referred to as the "Privilege Objection."]

Finally, Opposer objects to each definition or instruction to the extent it purports to impose obligations beyond those set forth in the Federal Rules of Civil Procedure and the Rules of Practice. Opposer will respond only as required by the Federal Rules of Civil Procedure and the Rules of Practice relating to discovery. Opposer objects to Applicant's "Definitions" as unduly vague, overbroad and ambiguous.

RESPONSES

1. Admit that a trademark search for at least one of Opposer's Marks has been conducted on Opposer's behalf.

Response No. 1

Opposer admits that a trademark search for at least one of Opposer's Marks has been conducted.

2. Admit that a trademark search for at least one of Opposer's Marks has not been conducted on Opposer's behalf.

Response No. 2

See Response No. 1.

3. Admit that Opposer's Mark, UGO, stands for "Underground Online."

Response No. 3

Opposer admits that Opposer's Mark, UGO, currently stands for "Underground Online" or "UnderGround Online," although Opposer notes that Opposer's Mark has in the past also been used to stand for other words, although the UGO mark and its pronunciation has remained consistent.

4. Admit that Opposer's Mark, UGO, is an initialism for "Underground Online."

Response No. 4

See Response No. 3.

5. Admit that Opposer's Mark, UGO, is an abbreviation for "Underground Online."

Response No. 5

See Response No. 3

6. Admit that Opposer's Mark, UGO, is an acronym for "Underground Online."

Response No. 6

See Response No. 3.

7. Admit that Opposer's Mark, UGO, stands for "UnderGroundOnline."

Response No. 7

See Response No. 3.

8. Admit that Opposer's Mark, UGO, is an initialism for "UnderGroundOnline."

Response No. 8

See Response No. 3.

9. Admit that Opposer's Mark, UGO, is an abbreviation for "UnderGroundOnline."

Response No. 9

See Response No. 3.

10. Admit that Opposer's Mark, UGO, is an acronym for "UnderGroundOnline."

Response No. 10

See Response No. 3.

11. Admit that Opposer's Mark, UGO, is different in appearance from the appearance of Applicant's Mark.

Response No. 11

Opposer admits that, while confusingly similar, Opposer's Marks and Applicant's Mark are not identical in appearance.

12. Admit that Opposer's Mark, UGO, is different in pronunciation from the pronunciation of Applicant's Mark.

Response No. 12

Denied.

13. Admit that Opposer's Mark, UGO, has a different meaning from the meaning of Applicant's Mark.

Response No. 13

Denied.

14. Admit that Opposer's Mark, UGO, creates a different commercial impression than the commercial impression of Applicant's Mark.

Response No. 14

Denied.

15. Admit that Opposer does not depict its UGO Marks in Kanji characters.

Response No. 15

Admit.

16. Admit that Opposer has a website at the URL www.ugo.com/Default.asp.

Response No. 16

Opposer admits that Opposer runs a Web sit at <ugo.com>.

17. Admit that attached as Exhibit 1 is a true and correct print out [sic] from Opposer's website at the URL www.ugo.com/Default.asp as it appeared on or about January 7, 2003.

Response No. 17

Opposer admits that, upon information and belief, Exhibit 1 depicts one of many Web pages displayed at <ugo.com> on January 7, 2003.

18. Admit that at the top of the printout attached as Exhibit 1 appears the words "UGO.com, UnderGroundOnline - The Air Max Q Super Power Sweepstakes."

Response No. 18

Opposer denies that these words appear at the top of the printout attached by Applicant as Exhibit 1, which in any event speaks for itself.

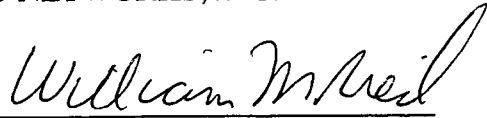
19. Admit that near the top of the printout attached as Exhibit 1 Opposer's Mark UGO is shown and immediately adjacent to the UGO Mark appears, among other things, the words "UnderGroundOnline."

Response No. 19

Exhibit 1 speaks for itself.

UGO NETWORKS, INC.

By: _____



William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, NY 10019-6099
Phone: (212) 728-8729
Fax: (212) 728-8111

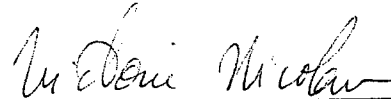
Attorneys for Opposer

Date: March 14, 2003

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **OPPOSER'S RESPONSE TO APPLICANT'S REQUEST FOR ADMISSIONS** was served on counsel for Applicant, this 14th day of March, 2003, by sending same via Federal Express to:

Jeffrey H. Kaufman
Brian B. Darville
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
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Victoria Nicolau

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 10

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**



June 16, 2003

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, NY 10019-6099

ATTORNEYS AT LAW
JEFFREY H. KAUFMAN
(703) 412-6404
JKAUFMAN@OBLON.COM

Re: *UGO Networks, Inc. v. Konami Corporation*
Opposition No. 153,578
U.S. Appl. Serial No. 76/074,595
Our Ref.: 231349US-1394-229237-33

Dear Mr. Ried and Ms. Snitkovsky:

We have reviewed Opposer's Responses to Applicant's Requests for Admissions, Opposer's Responses to Applicant's First Document Requests and Opposer's Responses to Applicant's First Set of Interrogatories. We find these responses to be deficient in several respects. We write in a good faith effort to resolve these discovery disputes before bringing them before the Board for resolution, as required by Trademark Rule 2.120(e).

Opposer's Responses to Applicant's First Set of Interrogatories

INTERROGATORY NO. 2

Identify (by name and title) each of Opposer's supervisory employees responsible for the promotion, sale and distribution of Opposer's Services promoted and/or sold in connection with Opposer's Marks.

RESPONSE

J. Moses, President and CEO; Michael McCracken, Chief Financial Officer and Executive Vice President, Corporate Development; Alexander Loucopoulos, Vice President, Corporate Development.

INTERROGATORY NO. 17

Identify those persons having the most knowledge of any market research (including surveys, studies, investigations and focus group inquiries) conducted by or on behalf of Opposer regarding any of Opposer's Marks.

RESPONSE

See response No. 2, supra

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
231349US-1394-229237-33
Page 2



INTERROGATORY NO. 24

Identify each person who has supplied documents for information for, or who has participated in responding to, these interrogatories, Applicant's First Request for Production of Documents and Things and Applicant's First Requests for Admissions.

RESPONSE

J. Moses, President and CEO; Michael McCracken, Chief Financial Officer and Executive Vice President, Corporate Development; Alexander Loucopoulos, Vice President, Corporate Development; Sabina Sudan, outside consultant; Linda Wright, Assistant; Jerry Lyons, former Chief Operation Office of UGO Networks, Inc.

Opposer's responses to Interrogatory Nos. 2, 17 and 24 are incomplete. Please provide the contact information for those individuals identified above sufficient for serving a subpoena.

INTERROGATORY NO. 4

Identify the person(s) who first conceived of Opposer's Marks for use by Opposer.

RESPONSE

Ambiguity Objection to the extent it is unclear whether this interrogatory seeks to identify the person(s) who first conceived of the UGO mark or those who first considered Opposer's acquisition and/or current use of the mark.

Opposer's response to Interrogatory No. 4 is non-responsive. Please identify the individual(s) who first conceived of the UGO mark and the individual(s) who first considered Opposer's acquisition and/or current use of the UGO mark. Opposer should identify such individuals and provide contact information sufficient for serving a subpoena.

INTERROGATORY NO. 12

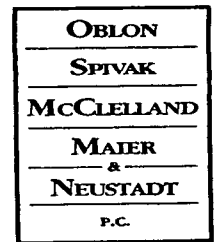
State whether Opposer first had knowledge of Applicant's use or registration of Applicant's Mark.

RESPONSE

Ambiguity Objection to the extent that Opposer is not presently aware of Applicant's registration of Applicant's Mark. As to Applicant's use of Applicant's Mark, Opposer became aware of such use at least as early as September 1, 2001.

Opposer's response to Interrogatory No. 12 is non-responsive. Please state when Opposer first learned of Applicant's U.S. Application Serial No. 76/074,595.

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
231349US-1394-229237-33
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INTERROGATORY NO. 13

State whether Opposer considered the issue of, and/or received any opinions concerning, a likelihood of confusion between Applicant's Mark and any of Opposer's Marks.

RESPONSE

Privilege Objection. Without waiving this objection, Opposer's notice of opposition in this proceeding states Opposer's position regarding the likelihood of confusion between Applicant's Mark and Opposer's Marks.

Opposer's response to Interrogatory No. 13 is non-responsive. Opposer fails to state whether it considered the issue of, or received any opinions concerning, a likelihood of confusion between Applicant's Mark and any of Opposer's Marks. Opposer may not rely on the legal assertions in its Notice of Opposition to respond to Applicant's requests for specific factual information. The answer to this interrogatory should consist, at a minimum, of a "yes" or "no".

INTERROGATORY NO. 18

Identify each reported instance of actual confusion, mistake, or deception known to Opposer between Opposer's Services promoted or sold in connection with any of Opposer's Marks and Applicant's Products promoted or sold in connection with Applicant's Mark.

RESPONSE

Ambiguity Objection as to the definition of "reported."

Opposer's response to Interrogatory No. 18 is non-responsive. The term "reported" should be given its ordinary meaning in the English language. Accordingly, Interrogatory No. 18 is not ambiguous. Please supplement Opposer's response to Interrogatory No. 18 to describe each instance of actual confusion, mistake, or deception known to Opposer between Opposer's services promoted or sold in connection with any of Opposer's Marks and Applicant's Products promoted or sold in connection with Applicant's Mark.

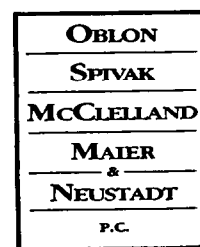
INTERROGATORY NO. 20

Identify the channels of distribution and the geographical areas of trade within which Opposer's Services are or are intended to be promoted and/or sold in connection with Opposer's Marks.

RESPONSE

Ambiguity Objection. Proprietary Information Objection as to future plans. Relevance Objection as to use outside the United States. Without waiving these objections, Opposer responds that its services have been and are distributed via the Internet throughout the United States and the rest of the world. UGO's network has reached up to over 10 million unique visitors in a single month.

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
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Opposer's response to Interrogatory No. 20 may be incomplete. Please confirm that Opposer's services have been and are distributed solely via the Internet throughout the geographic territories described.

INTERROGATORY NO. 23

Identify the meaning and commercial impression of Opposer's Marks.

RESPONSE

Ambiguity Objection as to the meaning of "meaning and commercial impression." Without waiving this objection, Opposer's Marks have come to signify Opposer's goods and services to a broad community of Internet users. For example, in May 2001, Opposer won *Revolution Magazine's* award for Best Online PR, and was a finalist in *Revolution Magazine's* Best Online Content category. Opposer also has received *Inside PR's* Creativity in Public Relations award for Best Program in the Entertainment Sector, and Tribeca Film Productions' Rulers Edge award for Best New Marketing Campaign.

Opposer's response to Interrogatory No. 23 is non-responsive. "Meaning and commercial impression" should be given their ordinary meaning in the English language. Accordingly, Interrogatory No. 23 is not ambiguous. Opposer offers examples of third party media attention in response to Applicant's interrogatory. Please supplement Opposer's response to Interrogatory No. 23 to include the meaning in the English language and the commercial impression of Opposer's Marks.

Opposer's Response to Applicant's First Document Request

REQUEST NO. 13

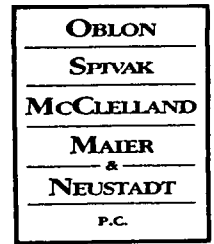
Produce those documents regarding the date and circumstances under which Opposer became aware of the use or registration of Applicant's Mark.

RESPONSE

Privilege Objection. Relevance Objection.

Opposer's Response to Request No. 13 is non-responsive. Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence and description of any relevant documents. Relevant documents include any discovery reasonably calculated to lead to the discovery of admissible evidence. Fed.R.Civ.P.26(b)(1). The date and circumstances under which Opposer became aware of the use or registration of Applicant's mark is directly relevant to the determination of the legal

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
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grounds for this Opposition proceeding. We ask that Opposer immediately produce all responsive, non-privileged documents requested to Applicant.

REQUEST NO. 14

Produce those documents regarding any action taken by Opposer in response to its awareness of Applicant's Mark.

RESPONSE

Public Source Objection. Privilege Objection. Relevance Objection, in that any action or inaction of Opposer in regard to Applicant's use of Applicant's Mark is not relevant to this proceeding.

Opposer's response to Request No. 14 is non-responsive. Action taken or not taken by Opposer in response to its awareness of Applicant's Mark is relevant to this proceeding as it may, for example, be relevant to the determination of laches or estoppel as a complete defense to Opposer's claims. We ask that Opposer immediately produce those responsive, non-privileged documents regarding any action taken by Opposer in response to its awareness of Applicant's Mark.

REQUEST NO. 17

Produce those documents regarding any instance in which a person has been confused, mistaken, or deceived as to the source of Applicant's Products advertised, promoted, offered for sale, or sold in connection with Applicant's Mark, and the source of Opposer's Services advertised, promoted, offered for sale, or sold in connection with any of Opposer's Marks.

RESPONSE

Opposer will produce any such documents in its possession.

Opposer's response to Request No. 17 is incomplete. Opposer states that it "will produce any such documents in its possession." However, Opposer's duty to produce relevant documents extends beyond those documents within its physical possession. Under the Federal Rules of Civil Procedure, Opposer must produce any relevant responsive documents in its possession, custody or control. Fed.R.Civ.P. 34(a). To the extent necessary, please immediately supplement Opposer's response to Request No. 17.

REQUEST NO. 18

Produce those documents and things forming the basis for the denial, in whole or in part, with respect to each of Opposer's responses to Applicant's First Requests for Admissions.

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
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RESPONSE

Overboard Objection. Ambiguity Objection. In addition to these objections, Opposer points out that it has as yet received no discovery from Applicant and anticipates that such discovery will provide support for some of these denials.

Opposer's response to Request No. 18 is non-responsive. Opposer states that it has not yet received discovery from Applicant and anticipates that such discovery will provide support for certain of its denials in response to Applicant's First Requests for Admissions. Applicant has since preliminarily responded to Opposer's first set of written discovery in this matter. Accordingly, please supplement Opposer's response to Request No. 18 to provide all documents and things forming the basis for the denial of any of Opposer's Responses to Applicant's First Requests for Admissions.

REQUEST NO. 20

Produce those documents regarding the appearance, pronunciation, meaning and commercial impression of Opposer's Marks.

RESPONSE

Ambiguity Objection as to what manner of document is identified by this request. Without waiving this objection, Opposer will do its best to produce responsive, non-privileged documents.

Opposer's response to Request No. 20 is non-responsive. Opposer states that the request is ambiguous to the extent that it fails to describe "what manner of document is identified by this request." The term "document" is defined in Applicant's First Set of Interrogatories, which definition is incorporated by reference into Applicant's First Request for Production of Documents. Accordingly, please supplement this response to produce those documents regarding the appearance, pronunciation, meaning and commercial impression of Opposer's Marks.

REQUEST NO. 21

Produce those documents, not otherwise requested herein, and referred to by Opposer in responding to Applicant's First Set of Interrogatories.

RESPONSE

Overbroad Objection.

Opposer's response to Request No. 21 is non-responsive. Opposer simply states that the request is overbroad. However, Trademark Rules of Practice provide that where a request is unduly burdensome, the Board, not Opposer may determine that a sample of responsive

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
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documents is adequate to meet the needs of the request. In this case, Opposer has failed to offer even a representative sample of responsive documents. Accordingly, please produce all documents, not otherwise produced, referred to by Opposer in responding to Applicant's First Set of Interrogatories.

Opposer states in response to several of Applicant's requests for production that the documents and things requested are confidential and therefore will not be produced. However, the mere identification of discovery documents (as opposed to the substance of the documents identified) is not privileged or confidential. TBMP §419(1); *see Goodyear Tire & Rubber Co. v. Tyrco Industries*, 186 USPQ 207 (TTAB 1975). To the extent Opposer wishes to assert a confidentiality objection to Applicant's Requests for Production of Documents, it may do so pursuant to a Stipulated Protective Order, once in place.

Opposer's Response to Applicant's Request for Admissions

REQUEST NO. 3

Admit that Opposer's Mark, UGO, stands for "Underground Online"

RESPONSE

Opposer admits that Opposer's Mark, UGO, currently stands for "Underground Online" or "UnderGround Online," although Opposer notes that Opposer's Mark has in the past also been used to stand for other words, although the UGO mark and its pronunciation has remained consistent.

REQUEST NO. 4

Admit that Opposer's Mark, UGO, is an initialism for "Underground Online."

RESPONSE

See Response No. 3.

REQUEST NO. 5

Admit that Opposer's Mark, UGO, is an abbreviation for "Underground Online."

RESPONSE

See Response No. 3.

REQUEST NO. 6

Admit that Opposer's Mark, UGO, is an acronym for "Underground Online."

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
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RESPONSE

See Response No. 3.

REQUEST NO. 7

Admit that Opposer's Mark, UGO, stands for "UnderGroundOnline."

RESPONSE

See Response No. 3.

REQUEST NO. 8

Admit that Opposer's Mark, UGO, is an initialism for "UnderGroundOnline."

RESPONSE

See Response No. 3.

REQUEST NO. 9

Admit that Opposer's Mark, UGO, is an abbreviation for "UnderGroundOnline."

RESPONSE

See Response No. 3.

REQUEST NO. 10

Admit that Opposer's Mark, UGO, is an acronym for "UnderGroundOnline."

RESPONSE

See Response No. 3.

In response to Applicant's Requests 3 – 10, Opposer states that Opposer's UGO mark currently stands for "Underground Online" or "UnderGroundOnline". However, Opposer fails to directly respond to Applicant's requests regarding UGO's function as an abbreviation, acronym or initialism for Underground Online or UnderGroundOnline. Please supplement responses 3 – 10 to remedy this apparent oversight.

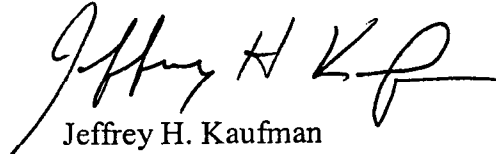
William M. Ried, Esq.
Natasha Snitkovsky, Esq.
231349US-1394-229237-33
Page 9



Please advise when we may expect to receive your client's supplemental responses and documents.

Sincerely,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman

JHK/ACS/tmt {I:\ATTY\JHK\KONAMI\1394-231349US-LTR1.DOC}

Enclosure(s): Copy of Opposer's Responses to Applicant's First Set of Discovery Requests

cc: Konami Corporation

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 11

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

WILLKIE FARR & GALLAGHER

231-547-1605 VAX III
JH

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

CONFIRMATION COPY

July 31, 2003

VIA FACSIMILE (703) 413-2220
CONFIRMATION VIA FIRST CLASS MAIL

Mr. Jeffrey H. Kaufman
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314

Re: UGO Networks, Inc. v. Konami Corporation
Opposition No. 91/153,578

RECEIVED
AUG 04 2003

**OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, P.C.**

Dear Mr. Kaufman:

We are in receipt of your letter of June 16, 2003.

In light of your letter, and our letters of May 7 and May 16, 2003, it is apparent that we have both taken the position that the other party's discovery responses are deficient in several respects.

However, given that we are currently negotiating a settlement, we believe it would not be fruitful to address your objections at this time. If and when the time comes, we will revisit the issue and respond substantively to your June 16th letter.

In the meantime, we look forward to continuing work with you on settlement efforts and propose to extend the discovery and trial dates in the consolidated proceedings. Discovery is presently scheduled to end on September 30, 2003; please let us know if you are amenable to an extension of three (3) months, and we will draft a document for filing with the Trademark Trial and Appeal Board.

Very truly yours,

Natasha Snitkovsky

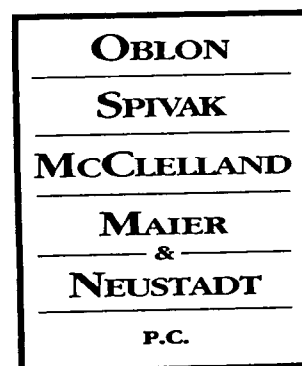
William M. Ried
Natasha Snitkovsky

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 12

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

October 7, 2003
Via Courier



ATTORNEYS AT LAW

JEFFREY H. KAUFMAN
(703) 412-6404
JKAUFMAN@OBLON.COM

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099

Re: *UGO Networks, Inc. v. Konami Corporation*
Opposition No. 153,578
U.S. Appln. Serial No. 76/074,595
Our Ref.: 231349US-1394-229237-33

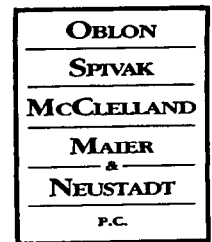
Dear Mr. Ried and Ms. Snitkovsky:

Enclosed please find a copy of the executed Protective Order submitted for entry in the above Opposition proceeding.

Now that the Protective Order is in place, we are in a position to supplement Konami Corporation's document production to include confidential documents. Given that settlement negotiations have ceased for the time being and in light of the Stipulated Protective Order now in place, we ask that you respond substantially to our letter of June 16, 2003 raising deficiencies in your client's discovery responses, and produce those confidential responsive documents withheld to date.

We would like to schedule the depositions of Ugo Networks employees, including a Rule 30(b)(6) representative. As the scheduling process can be protracted, we ask that you begin the process of gathering dates on which witnesses with the most knowledge of the creation, history and use of the UGO mark would be available.

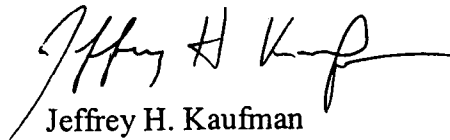
William M. Ried, Esq.
Natasha Snitkovsky, Esq.
231349US-1394-229237-33
Page 2



Finally, our client has proposed a further thirty day extension of the discovery period in this matter until November 1, 2003. Please advise if you would consent to this further extension.

Sincerely,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman

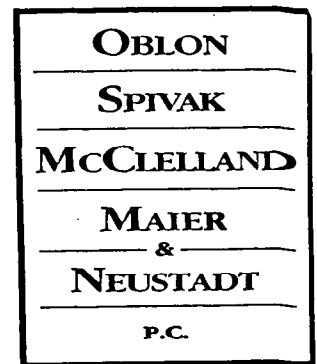
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Enclosure(s): Copy of Executed Protective Order

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 13

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**



October 24, 2003

VIA COURIER

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099

ATTORNEYS AT LAW

JEFFREY H. KAUFMAN
(703) 412-6404
JKAUFMAN@OBLON.COM

Re: *UGO Networks, Inc. v. Konami Corporation*
Opposition No. 91/153,578
Appln. Serial No.: 76/074,595
Our Ref: 1394-231349US-33

Dear Mr. Ried and Ms. Snitkovsky:

Our client has reviewed the Notice to Take Deposition of a Rule 30(b)(6) representative of Konami Corporation and the areas outlined in the notice's attached exhibit.

As you may know, Konami Corporation is a Japanese corporation with headquarters located in Japan. Konami partners with a number of third-parties, including Japanese and American companies, to develop, advertise, and distribute its products in the United States, including products sold under the YU-GI-OH! mark.

Because of our client's multi-national presence, size, and corporate complexity, many of those individuals with knowledge of the matters relevant to this proceeding are located abroad or, in some cases, are not employed by Konami Corporation.

Konami will not make witnesses employed by Konami Corporation and located in Japan available for deposition in the United States as an initial matter. Given the extended period for discovery (currently until December 30, 2003), there appears to be ample time for the parties to arrange for the depositions of witnesses located in Japan to be completed pursuant to procedure provided by TBMP § 404.03(b).

In other cases, there may be certain employees of Konami's U.S. subsidiary, KDE, who have knowledge of particular areas at issue. Note that KDE is located in Redwood City, California. Konami Corporation may agree to the taking of KDE employee(s) deposition(s) at our office in Alexandria, Virginia, if depositions of Opposer's employees are similarly permitted in Alexandria or Manhattan.

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
1394-231349US-33
Page 2



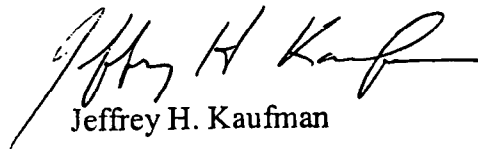
In the case of third-party witnesses, whom Konami does not control, Ugo Networks will have to secure the attendance of these witnesses through civil subpoenas in accordance with the Civil Rules and the Trademark Rules of Practice.

We enclose Notices to Take Depositions of the three witnesses identified in our e-mail correspondence of October 16, 2003. Since you have not yet provided available dates, we chose dates as an initial matter. We understand that these dates may have to be altered. However, the period of our availability for these depositions, as well as for our client's U.S. witnesses, is November 24, 2003 through December 12, 2003.

Finally, we ask again that you respond substantively to our June 16, 2003 deficiency letter. We will require this information to prepare for the anticipated depositions.

Sincerely,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman

Encl.: Notices to Take Depositions

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UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 14

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,

Opposer,

v.

KONAMI CORPORATION,

Applicant.

Opposition No. 91/153,578
Appln. Serial No.: 76/074,595

**NOTICE OF DEPOSITION OF
MR. MICHAEL McCracken**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on November 24, 2003, beginning at 1:00 P.M., at
the offices of:

ALLSTAR REPORTERS, INC.
50 Carnation Avenue
Floral Park
New York, New York 11001
(800) 329-9222

Applicant, Konami Corporation, through its attorneys of record, will take the deposition upon oral examination of Mr. Michael McCracken, CFO and Vice President of Opposer, Ugo Networks, Inc., a corporation doing business at 251 Park Avenue South, 12th Floor, New York, New York 10010.

The deposition will be taken for purposes of discovery and for all other purposes permitted under the Federal Rules of Civil Procedure and Trademark Rules of Practice. The

231349 US
DOCKETING: KR 10/27/03
DEPT. DKT:
DATE: November 24, 2003
RETURN TO: P. Karsen (3008)

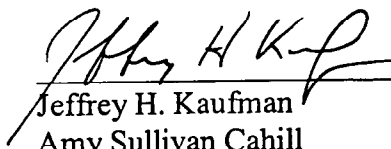
deposition will be taken before a notary, duly authorized to administer oaths and transcribe the testimony of the deponent, and the deposition will continue from day to day until completed.

You are invited to attend and cross-examine.

Respectfully submitted,

KONAMI CORPORATION

By:


Jeffrey H. Kaufman

Amy Sullivan Cahill

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

1940 Duke Street

Alexandria, Virginia 22314

(703) 413-3000

fax: (703) 413-2220

e-mail: tmddocket@oblon.com

Attorneys for Applicant

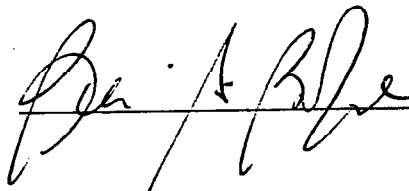
Dated: 10/24/03

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CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing NOTICE OF DEPOSITION to be served by U.S. First Class Mail, postage prepaid, this 24 day of October, 2003, on all counsel of record as follows:

William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099



A handwritten signature, likely of William M. Ried, is written over a horizontal line. The signature is in cursive and appears to read "Wm. M. Ried".

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,

Opposer,

v.

KONAMI CORPORATION,

Applicant.

Opposition No. 91/153,578
Appln. Serial No.: 76/074,595

NOTICE OF DEPOSITION OF MR. J. MOSES

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on November 24, 2003, beginning at 9:00 A.M., at
the offices of:

ALLSTAR REPORTERS, INC.
50 Carnation Avenue
Floral Park
New York, New York 11001
(800) 329-9222

Applicant, Konami Corporation, through its attorneys of record, will take the deposition upon oral examination of Mr. J. Moses, President and CEO of Opposer, Ugo Networks, Inc., a corporation doing business at 251 Park Avenue South, 12th Floor, New York, New York 10010.

The deposition will be taken for purposes of discovery and for all other purposes permitted under the Federal Rules of Civil Procedure and the Trademark Rules of Practice. The deposition will be taken before a notary, duly authorized to administer oaths and transcribe the

testimony of the deponent, and the deposition will continue from day to day until completed.

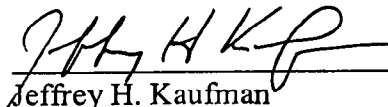
DOCKET NO.	231349US
DOCKETING	10/27/03
DEPT. DKT:	
DATE DATE:	November 24, 2003
RETURN TO:	P. Karsen (3008)

You are invited to attend and cross-examine.

Respectfully submitted,

KONAMI CORPORATION

By:



Jeffrey H. Kaufman

Amy Sullivan Cahill

OBLON, SPIVAK, McCLELLAND,

MAIER & NEUSTADT, P.C.

1940 Duke Street

Alexandria, Virginia 22314

(703) 413-3000

fax: (703) 413-2220

e-mail: tmddocket@oblon.com

Attorneys for Applicant

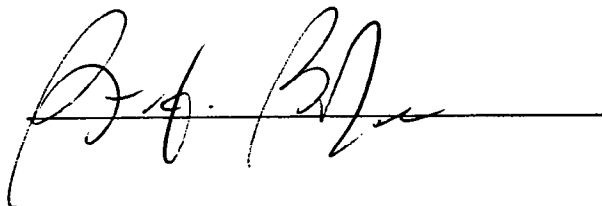
Dated: 10/24/03

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CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing NOTICE OF DEPOSITION to be served by U.S. First Class Mail, postage prepaid, this 24 day of October, 2003, on all counsel of record as follows:

William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099

A handwritten signature in dark ink, appearing to read "W.M. Ried", is written over a horizontal line.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

UGO NETWORKS, INC.,

Opposer,

v.

KONAMI CORPORATION,

Applicant.

Opposition No. 91/153,578

Appln. Serial No.: 76/074,595

**NOTICE OF DEPOSITION PURSUANT TO RULE 30(B)(6)
OF OPPOSER UGO NETWORKS, INC.**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on November 25, 2003, beginning at 9:00 A.M., at
the offices of:

ALLSTAR REPORTERS, INC.
50 Carnation Avenue
Floral Park
New York, New York 11001
(800) 329-9222

Applicant, Konami Corporation, through its attorneys of record, will take the deposition upon oral examination of Opposer, Ugo Networks, Inc., a corporation doing business at 251 Park Avenue South, 12th Floor, New York, New York 10010, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure. The deposition will be taken before a notary, duly authorized to administer oaths and transcribe the testimony of the deponent, and the deposition will continue from day to day until completed.

DOCKET NO.	231349US
DOCKETING	OKR 10/17/03
DEPT. DIR.	
DATE	November 25, 2003
REPRINTED	P. Karsen (3008)

You are invited to attend and cross-examine.

THE NOTICE NAMES AS A DEPONENT A CORPORATION. Pursuant to Rule 30(b)(6), Fed. R. Civ. P., Opposer, Ugo Networks, Inc., is required to identify and produce for deposition one or more officers, directors, managing agents, or other agents and employees who consent to testify on its behalf and are the officers, directors, agents or employees most knowledgeable as to the following matters identified in EXHBIT A to this Notice of Deposition which is attached hereto and incorporated herein by reference.

Respectfully submitted,

KONAMI CORPORATION

By:


Jeffrey H. Kaufman

Amy Sullivan Cahill

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

1940 Duke Street

Alexandria, Virginia 22314

(703) 413-3000

fax: (703) 413-2220

e-mail: tmdocket@oblon.com

Attorneys for Applicant

Dated: 10/24/03

JHK/ASC/rab {I:\ATTY\JHK\KONAMI\FILINGS\1394-231349US-NOD3.DOC}

EXHIBIT A

EXHIBIT A

DEFINITIONS AND INSTRUCTIONS

Applicant incorporates herein by reference as if fully restated herein the Definitions and Instructions to Applicant's First Set of Interrogatories to Opposer ("Applicant's Interrogatories").

TOPICS ON WHICH EXAMINATION IS REQUESTED PURSUANT TO RULE 30(B)(6)

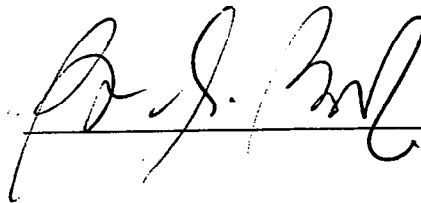
1. Applicant's First and Second Sets of Interrogatories to Opposer and all topics and information referenced or raised therein;
2. Opposer's Objections and Answers to Applicant's First and Second Sets of Interrogatories and all topics and information referenced or raised therein;
3. Applicant's First and Second Requests for Production of Documents and Things to Opposer and all topics and information referenced or raised therein;
4. Opposer's Objections and Responses to Applicant's First and Second Requests for Production of Documents and Things and all topics and information referenced or raised therein;
5. The documents produced by Opposer in this matter concerning Ugo Networks, Inc. or its predecessors in interest;
6. Applicant's First and Second Sets of Requests for Admissions to Opposer and all topics and information referenced or raised therein;
7. Opposer's Objections and Responses to Applicant's First and Second Requests for Admissions to Opposer and all topics and information raised therein;
8. The products and services offered for sale under Opposer's UGO mark;
9. All non-privileged communications between Opposer and any other person(s) concerning a) the name or brand UGO; b) UGO brand products and services; or c) this action;
10. The creation, manufacture, purchase, distribution, sale, marketing, recall or return of any of Opposer's products offered for sale under Opposer's UGO mark;
11. The creation and content of Opposer's web site www.ugo.com;

12. Any expert witness and any report provided by any expert witness whom Opposer has retained in connection with this proceeding, including all documents, materials and things provided to that expert witness and all communications with that expert witness;
13. Any prior lawsuits or demand letters where Opposer or any of its officers, directors or employees have been accused of trademark infringement or unfair competition in the past and the details and disposition of all such lawsuits or demand letters;
14. The persons supplying information in connection with Opposer's objections and responses to Applicant's First and Second Sets of Interrogatories and Applicant's First and Second Requests for Production of Documents and Things;
15. The factual and legal basis for each claim asserted by Opposer in the Notice of Opposition;
16. All advertising and promotional efforts by Opposer to market its UGO brand products and services, including catalogs, letters, web pages, web sites, trade shows, or other materials;
17. The pleadings in this proceeding;
18. The corporate history and creation of Ugo Networks, Inc. including its relationship and any communications with its predecessors in interest, including Unified Gamers Online;
19. The source, creation and history of the UGO mark.

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing NOTICE OF DEPOSITION PURSUANT TO RULE 30(B)(6) OF OPPOSER UGO NETWORKS, INC. to be served by U.S. First Class Mail, postage prepaid, this 24 day of October, 2003, on all counsel of record as follows:

William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099

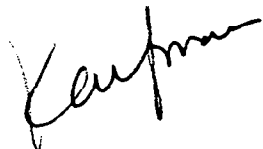
A handwritten signature in black ink, appearing to read "W.M. Ried", is written over a horizontal line.

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 15

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

WILLKIE FARR & GALLAGHER LLP


WILLIAM M. RIED
212 728 8729
wried@willkie.com

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

October 27, 2003

Jeffrey Kaufman, Esq.
Oblon, Spivak, McClelland, Maier & Neustadt P.C.
1940 Duke Street
Alexandria, VA 22314

RECEIVED
OCT 30 2003

OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, P.C.

Re: *UGO v. Konami*
Opposition No. 153,578

Dear Mr. Kaufman:

At your request following Applicant's termination of settlement discussions in this matter, we have returned to your June 16, 2003 letter concerning Opposer's responses to Applicant's first set of discovery requests.

By separate letter, we have addressed the deficiencies in Applicant's responses to Opposer's discovery requests. In light of Applicant's failure to provide responsive information in response to such requests, even to the point of refusing to identify the persons responsible for Applicant's relevant business under Applicant's Mark, we find it remarkable that you could complain about the comparatively forthcoming responses of Opposer. We inquire whether you have some basis to assert a different standard of obligation to respond to discovery for applicants and opposers.

In any event, you may feel free to contact the identified employees of UGO through our offices. In addition, we are gathering for your inspection confidential documents that we will produce pursuant to the protective order now entered. We remain confused about your various discovery requests into Opposer's knowledge of the registration of Applicant's Mark, as we are aware of no such registrations. We continue to assert that the doctrines of laches and estoppel are not relevant to this opposition proceeding. We assure you that, in responding that we would produce documents in Opposer's possession, this includes documents in Opposer's custody or control and we feel confident that Applicant also would not hide behind such semantic distinctions to shield proper discovery.

In regard to Applicant's request for admissions, we ask for your help in clarifying your issue. You asked, first, for Opposer to admit that UGO stands for "Underground Online" or "UnderGroundOnline." We responded to this request. You then asked for Opposer to admit that UGO functions as an abbreviation for these words. In our dictionary, "abbreviation" means an abridgement

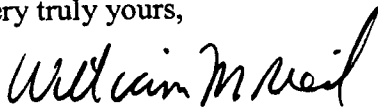
or short form of a word or phrase used in place of the whole. If this differs from what you meant by "stands for," please explain the distinction. Similarly, you separately asked for Opposer to admit that UGO is an "acronym" for the same words. In our dictionary, an "acronym" is defined as "a word formed from the initial letter or letters of each of the successor parts or major parts of a compound term." Again, we ask how this differs from asking whether UGO "stands for" these words. Finally, you asked whether UGO is an "initialism" for the same words. Our dictionary defines "initialism" as "an acronym formed from initial letters." We trust you can see why we believed we responded fully to your questions and objected to being asked to respond separately to every way you could think of asking the same question.

We do not fault your efforts to make certain you have an answer to your question of what UGO stands for. However, we do fault your devoting two pages of a supposed "good faith" letter to insisting that we again share in this mental exercise with you.

In conclusion, we return to your discussion of Opposer's response to Document Request 18. Opposer's response had stated, in part, that it anticipated receiving discovery from Applicant that would provide support for its denials of requests for admission. Your reply was that "Applicant has since preliminarily responded to Opposer's first set of written discovery in this matter." This "preliminary" response was served in April, some six months ago and promised follow up in numerous particulars following your continuing investigation. Now the discovery deadline is upon us, but you have still not supplied any "final" responses to Opposer's discovery requests or any supplement at all to reflect your investigation. You also have yet to supply any of the documents you agreed to supply once a protective order was in place. Your "preliminary" responses were entirely evasive and provided no meaningful discovery.

As stated above, we are collecting confidential documents for your inspection and copying and will advise you when and where they will be made available. Please do not hesitate to call if you wish to discuss any other discovery matters.

Very truly yours,



William M. Ried

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 16

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

From: Jeffrey Kaufman
To: "wried@willkie.com".GWIA.OSGW
Date: 11/12/03 6:27PM
Subject: RE: UGO Networks v. Konami Corporation

Bill:

I understand that Brian Darville responded to Natasha's telephone call this afternoon and left her a voicemail message. To my knowledge, she has not returned Brian's return call.

We are producing Konami's confidential documents tonight so you should have them tomorrow. As Brian's letter more fully explains (copy attached), we did not receive the documents back from the copier until late in the day on Monday and could not get them out before close of business. Our office was closed on Tuesday, so we are sending the documents out on the first available day.

We hope to be able to serve Konami's supplemental discovery responses shortly once we obtain some additional information from Japan. As to the depositions you noted for November 17, as we previously informed you, that date is not possible, and we will need to work on a mutually-convenient schedule for both sides' discovery depositions.

We disagree with your statement of how the discovery has progressed in this case, and hope that you will reconsider and not seek the Board's involvement at this stage. We have been fully cooperative and your e-mail does not consider the difficulty we have faced in producing documents from a large client whose documents are mainly located in Japan. We continue to work with you to be fully responsive, to the extent required by the Rules, to Ugo Networks' discovery requests.

May I also remind you that we still await UGO Networks' supplemental discovery responses, which are deficient as we outlined five months ago, on June 15, 2003. Please let us know where this stands.

Regards,

Jeff Kaufman

Jeffrey H. Kaufman
Oblon, Spivak
1940 Duke Street, Alexandria, VA 22314 USA
voice 1-703-412-6404 fax 1-703-413-2220
jkaufman@oblon.com www.oblon.com

>>> "Ried, William" <wried@willkie.com> 11/12/03 04:43PM >>>
Brian:

We are perplexed by your failure to respond to our emails below. We also tried unsuccessfully to reach you and Jeffrey Kaufman by telephone this afternoon and have received no return calls.

You have forced us to conclude that your offer only after six months to supply supplemental discovery responses/documents -- and then your failure to honor this offer by actually serving the responses/documents -- is intended to make it impossible for us to proceed with the deposition of Konami scheduled for November 17 and to obstruct our attempts to obtain complete discovery responses from Konami.

We feel that you have left us no choice but to seek the assistance of the

Board to compel discovery responses and preclude Konami from offering withheld evidence. We nonetheless remain open to a resolution of this discovery dispute at any time prior to the Board's consideration of the matter.

Very truly yours,

Bill Ried

-----Original Message-----

From: Ried, William

Sent: Monday, November 10, 2003 6:33 PM

To: 'Brian Darville'

Cc: Snitkovsky, Natasha; Jeffrey Kaufman (E-mail)

Subject: RE: UGO Networks v. Konami Corporation

Brian: We did not receive any documents today. We will look for them again tomorrow, but don't have much more time before we must determine whether Konami's discovery responses will permit us to go forward with the depositions or require us to seek the intervention of the Board. We reiterate that we would like you to deliver your supplemental production to us by overnight courier, given the shortness of time, and that we will reimburse these forwarding charges.

We are sure that, like us, you and the Konami witnesses would like to firm up your schedules. If the documents will not be delivered to us tomorrow, please let us know when we can expect them. Thank you. Bill

-----Original Message-----

From: Ried, William

Sent: Friday, November 07, 2003 4:58 PM

To: 'Brian Darville'

Subject: RE: UGO Networks v. Konami Corporation

Brian: We will pay the new charges and the old charges. We ask that you send the documents off for Monday delivery, as we will need quickly to assess whether your supplemental production/ responses respond to our requests sufficiently to permit the depositions to go forward. Thank you. Bill

-----Original Message-----

From: Brian Darville [<mailto:BDARVILLE@oblon.com>]

Sent: Friday, November 07, 2003 3:09 PM

To: Ried, William

Cc: Amy Sullivan; Jeffrey Kaufman

Subject: UGO Networks v. Konami Corporation

Dear Bill:

Konami is prepared to provide its supplemental document production. The cost of copying these 819 documents would be approximately \$163.80, plus courier charges. If you wish for us to proceed with the production, please

confirm your agreement to pay the \$163.80 plus courier charges. We will then copy the documents and produce them to you.

In addition, I am informed that we are still waiting on payment from your firm for Konami's previous production made in June 2003. I attach a copy of your e-mail regarding that charge. Please advise if we have overlooked your payment. Otherwise, please confirm that you will make that payment as well so that we can proceed with Konami's supplemental document production.

Thank you.

Sincerely,

Brian Darville
Oblon, Spivak
(703) 412-6426
bdarville@oblon.com

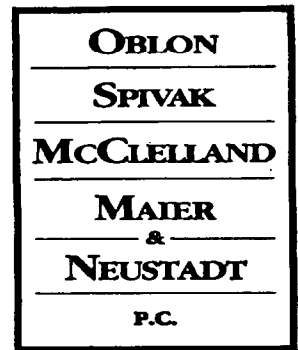
IMPORTANT NOTICE: This e-mail message is intended to be received only by persons entitled to receive the confidential information it may contain. E-mail messages to clients of Willkie Farr & Gallagher LLP presumptively contain information that is confidential and legally privileged; e-mail messages to non-clients are normally confidential and may also be legally privileged. Please do not read, copy, forward or store this message unless you are an intended recipient of it. If you have received this message in error, please forward it back. Willkie Farr & Gallagher LLP is a limited liability partnership organized in the United States under the laws of the State of Delaware, which laws limit the personal liability of partners.

CC: "nsnitkovsky@willkie.com".GWIA.OSGW; Darville, Brian

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 17

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**



November 12, 2003

Via UPS Courier

William M. Ried, Esquire
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099

ATTORNEYS AT LAW

BRIAN B. DARVILLE
(703) 412-6426
BDARVILLE@OBLON.COM

Re: *UGO Networks, Inc. v. Konami Corporation*
Opposition No. 91/153,578
Appln. Serial No.: 76/074,595
Our Ref: 231349US-1394-33

Dear Mr. Ried:

We received your letter of October 15, 2003.

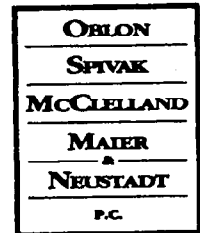
As you know, and consistent with the Federal Rules of Civil Procedure, Applicant withheld from production its confidential and proprietary documents and information pending the parties' agreement to a Stipulated Protective Order. That Stipulated Protective Order was first tendered to the Board only recently. Accordingly, Applicant hereby produces the following documents marked CONFIDENTIAL pursuant to the terms of the Stipulated Protective Order in this matter.

K00003 - K00006
K00011 - K00012
K00023 - K00047
K00054 - K00055
K00057 - K00132
K00218
K00226 - K00229
K00232

K00237 - K00238
K00240 - K00241
K00243
K00249
K00255
K00257
K00258
K00273

K00277
K00279
K00304 - K00325
K01487 - K01490
K01498 - K01584
K01604 - K02128
K02129 - K02175

William M. Ried, Esquire
231349US-1394-33
Page 2



We also received your e-mails regarding Konami's supplemental document production. We did not receive the documents from the copier until late in the day on Monday, and could not get them out to you that night. Our office was closed on Tuesday, so we could not send you the documents until today. We are now sending the documents to you overnight.

Your claims that Konami is seeking to obstruct UGO Network's discovery is incorrect. Konami informed you weeks ago that its witnesses would not be available on November 17, 2003. You never responded and did not propose any alternative dates.

We expect to be able to serve Konami's supplemental discovery responses in the near future once we receive authority from Konami. We will send them to you by overnight courier once they are final.

Similarly, we expect UGO Networks to supplement its discovery responses as outlined in our June 15, 2003 letter. It has been five months since that letter and you have not responded in any meaningful way. Your October 28, 2003 letter makes light of the discovery Konami seeks, but ignores many of the deficiencies with UGO Networks' discovery responses. We again request full and complete supplemental responses as soon as possible and certainly no later than November 19, 2003.

Sincerely,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read "Brian B. Darville".

Brian B. Darville

BBD/ASC/kan {I:\atty\JHK\Konami\Letters\1394-231349US-lt5.doc}

Enclosure(s): As Stated

cc: Jeffrey H. Kaufman, Esquire

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 18

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

WILLKIE FARR & GALLAGHER LLP

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

November 12, 2003

VIA FACSIMILE (703) 413-2220
CONFIRMATION VIA FIRST-CLASS MAIL

Mr. Jeffrey H. Kaufman
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314

Re: UGO v. Konami
Opposition No. 91/153,578
Motion to Compel and to Preclude Depositions

Dear Mr. Kaufman:

Given your continuing refusal to supplement your discovery responses/production or even to respond to our emails and telephone calls, you have forced us to file with the Trademark Trial and Appeal Board a motion to compel. Enclosed with the confirmation copy of this letter are service copies of this motion and the supporting documents.

Additionally, as your actions have made it impossible for us to proceed with the deposition of Konami scheduled for November 17, we must adjourn this deposition pending the Board's resolution of the motion and/or our receipt of satisfactory supplemental responses/production.

Finally, as we have discussed previously, we will not produce the UGO witnesses named in your deposition notices until the conclusion of the previously noticed Konami deposition.

Very truly yours,

Natasha Snitkovsky (usa)
William M. Ried
Natasha Snitkovsky

Enclosures

RECEIVED J.K.
NOV 13 2003
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 19

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**



November 13, 2003

Via Facsimile

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099

ATTORNEYS AT LAW

JEFFREY H. KAUFMAN
(703) 412-6404
JKAUFMAN@OBLON.COM

Re: *UGO Networks, Inc. v. Konami Corporation*
Opposition No. 91/153,578
Appln. Serial No.: 76/074,595
Our Ref: 231349US-1394-33

Dear Mr. Ried and Ms. Snitkovsky:

This letter is in response to your November 12, 2003 letter to me, which was faxed to our firm after 6:00 p.m. yesterday evening.

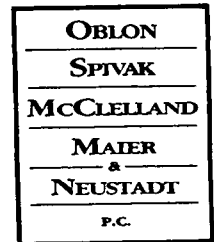
Contrary to your claims, Konami did not refuse to supplement its discovery responses. As we explained, we produced Konami's confidential documents on the first available day after we received them from the copying service. We produced those documents to you yesterday evening and we understand from your e-mail today that you have received them.

We note that in your e-mail to me today you acknowledge that the parties had agreed to put all discovery issues on hold while they were pursuing settlement discussions. You then claim that UGO Networks responded to Konami's letter regarding UGO Network's deficient discovery on October 28, 2003. But your October 28, 2003 letter does not properly supplement UGO Network's discovery responses and flouts UGO Networks' discovery obligations.

As we also explained in our letter yesterday, we were awaiting confirmation of the supplemental discovery responses from Japan before we could serve Konami's supplemental discovery responses. We received that confirmation today and served Konami's supplemental responses today by overnight courier as you had requested.

In your letter you claim that our actions have somehow made it impossible for you to proceed with a deposition of Konami and so you are adjourning that deposition. As we explained in our October 24, 2003 letter, Konami Corporation is a Japanese corporation based in Japan and can only be deposed pursuant to TBMP § 404.03(b). We informed you that there was

William M. Ried, Esq.
Natasha Snitkovsky, Esq.
231349US-1394-33
Page 2



sufficient time for you to depose Konami in Japan under appropriate procedures if you so desired. You took no action whatsoever to pursue a proper deposition of Konami Corporation in Japan, notwithstanding the discovery procedures available for obtaining evidence from an overseas party. That was your decision, but the results of that decision cannot be blamed on Konami or our firm.

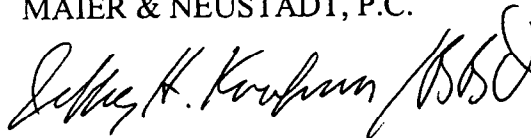
Similarly, as a gesture of good faith, our firm proposed that Konami might make an employee of its U.S. subsidiary available for deposition in Alexandria, Virginia (rather than in California where they are based), if Opposer would permit the deposition of its employees in Alexandria, Virginia or Manhattan. You never responded to this reasonable offer, nor did you propose any alternative dates in the 3 weeks since our letter.

Finally, in your letter you refuse to produce the UGO witnesses named in Konami's Notices of Deposition until after you take the deposition of Konami Corporation. You have no legal basis to refuse to produce these witnesses, who apparently are available for deposition. We ask that you reconsider your position and inform us no later than Tuesday, November 18, 2003, whether UGO Networks will produce its witnesses for the properly noticed depositions on November 24 and 25, 2003. Otherwise, we will need to seek the involvement of the TTAB.

With best regards,

Sincerely,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 20

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

UGO NETWORKS, INC.,

Opposer,

v.

KONAMI CORPORATION,

Applicant.

Consolidated Opposition No. 91/153,578
Serial Nos.: 76/074,595 and 76/075,729

**OPPOSER'S SUPPLEMENTAL RESPONSE TO APPLICANT'S FIRST SET OF
INTERROGATORIES**

Pursuant to a Protective Order entered between the parties and filed with the Board on October 7, 2003, and subject to the general objections stated in Opposer's Response to Applicant's First Set of Interrogatories, which are incorporated herein, Opposer, UGO NETWORKS, INC. ("Opposer"), hereby supplements its Response to Applicant's First Set of Interrogatories, dated March 14, 2003, as follows:

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 8

For each service identified in answer to Interrogatory No. 5, state, by calendar quarter, the dollar volume budgeted and expended by Opposer to promote Opposer's Marks in connection therewith.

Supplemental Response No. 8

Opposer responds that it has maintained no records breaking down its advertising budget that would be responsive to this interrogatory.

INTERROGATORY NO. 9

For each service identified in answer to Interrogatory No. 5, state, by calendar quarter, the approximate income anticipated and received to date from sales of Opposer's Services in connection with each of Opposer's Marks.

Supplemental Response No. 9

Opposer responds that it has maintained no records breaking down its income and revenue in a way that would be responsive to this interrogatory. However, Opposer notes that documents it produced in response to Applicant's First Document Request reveal that, as of March 2001, Opposer had raised a total of approximately eighty million dollars (\$80,000,000) in funding and had revenues during the year 2000 in excess of fifteen million dollars (\$15,000,000).

INTERROGATORY NO. 18

Identify each reported instance of actual confusion, mistake, or deception known to Opposer between Opposer's Services promoted or sold in connection with any of Opposer's Marks and Applicant's Products promoted or sold in connection with Applicant's Mark.

Supplemental Response No. 18

Employees of Opposer have observed instances of actual confusion over the past several years regarding whether UGO is related to YU-GI-OH and/or Konami from: a) Opposer's advertisers; b) Opposer's clients; and c) family members of Opposer's employees.

Additionally, Opposer appends hereto a printout of the Web site located at the URL <http://www.hh.ijj4u.or.jp/~ugo/index.html>. This site appears to be a UGO copycat site in Japan selling copycat YU-GI-OH illustrations. The home page features a picture of a Japanese anime character, possibly associated with YU-GI-OH, signing its name as "UGO."

Mr. Gary Coleman, who participated in a UGO Web-a-Thon and has been a UGO weekly columnist, and whose image and voice have recently been incorporated into an online

game called "Postal 2," has reported that players of Postal 2 are regularly confused about an association between UGO and YU-GI-OH.

INTERROGATORY NO. 19

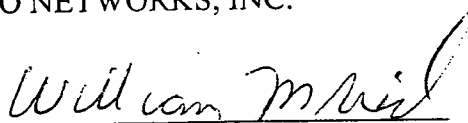
Identify any agreements (such as assignments, licenses, authorizations, permissions, or consents) entered into by Opposer regarding any of Opposer's Marks.

Supplemental Response No. 19

Simultaneously with serving Opposer's Supplemental Response to Applicant's First Document Request, Opposer is: (i) producing copies of the agreement concerning Opposer's acquisition of Opposer's Mark; and (ii) producing representative samples of Opposer's affiliate and advertising agreements; and (iii) making available for Applicant's inspection hundreds of additional agreements between Opposer and its affiliates and partners.

UGO NETWORKS, INC.

By: _____



William M. Ried
Natasha Snitkovsky
WILLKIE FARR & GALLAGHER LLP
787 Seventh Avenue
New York, NY 10019-6099
Phone: (212) 728-8729
Fax: (212) 728-8111

Attorneys for Opposer

Date: November 19, 2003



Welcome to UGO on the Net

Prototype

You are the 173698th visitor.

2003.10.11

Topics

[こうしの小](#)

[屋](#)

[魔窟](#)

[ねずみ道](#)

[General](#)

[Works](#)

[Links](#)

[新規「楽し](#)

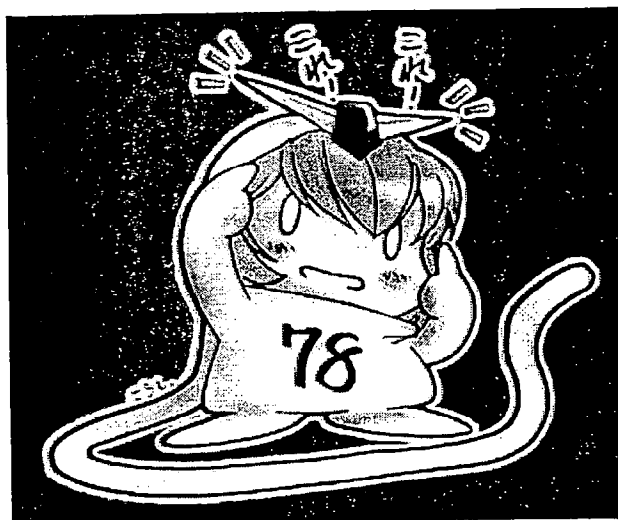
[い掲示](#)

[板」！！](#)

[シベリア](#)

[i-MODE](#)

コミックレヴオリューションにて弊スペースまでおいで下さった方々、
有り難う御座いました。遅くなりましたが、改めて御礼申し上げます。
薄くは有りますが気に入ったネタを入れた本になりました。
是非感想などお聞かせ頂ければ幸いです。



This site
is link
FREE.



ご意見・ご
感想はメー
ルでお願い
します。



ugo@hh.iii4u.or



[Topics](#)[こうしの小](#)[屋](#)[魔窟](#)[General](#)[Works](#)[Links](#)[楽しい掲示](#)[板\(新\)](#)[たのしい掲](#)[示板\(旧\)](#)[シベリア](#)[i-MODE](#)[供養](#)[UGO on the](#)[Net\(Top\)](#)

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ご意見・ご
感想はメー
ルでお願い
します。

ugo@hh.iii4u.or

Topics

2003.8.01

何と一年ぶりです・・・情けない。
(最早ネタと割り切っております)

さて、今回のコミケでは、下記の新刊を予定致しております。

- ・「マリみて納涼セット」

- ・「エヴァンゲリオン・リローテッド」

「マリみて納涼セット」は恒例のフルカラー冊子に夏向けのオマケ付きです。

ファンの方であればニヤリとして頂けるかと。

「エヴァンゲリオン・リローテッド」については、D
VDのリニューアルを記念して作成しました。

今見直しても面白いですね。本には夏らしいサービス
イラストやショートストーリーを入れてみました。

また、同時に関係者各位からもリクエストを頂いていた
特性トートバックの

「マリみてバージョン」を頒布の予定です。

2年余りの時を経て、10何箇所の改良を加えた上

に、布地をマリみての制服カラーにしての登場です。

(ちゃんと色が出ていると良いのですが、染めの結果
がちよっと怖いですが・・・)

かなり上品なバックになるのではないかと、我々自身
が楽しみにしております。

勿論、特注ワッペン付きです！

当日をどうぞお楽しみに！

2002.8.09

何と一年ぶりです・・・情けない。

まーったく進歩しておりませんね(三年も続
くと芸にならんかな?)

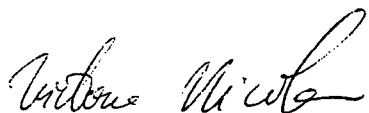
さて、去年よりぐっと遅く今回の頒布物
をご説明致します。

新刊はトップページに有るイラストを参考

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **SUPPLEMENTAL RESPONSE TO APPLICANT'S FIRST SET OF INTERROGATORIES** was served on counsel for Applicant, this 19th day of November, 2003 by sending same via Federal Express to:

Jeffrey H. Kaufman
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
Fax (703) 413-2220



Victoria Nicolau

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 21

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

UGO NETWORKS, INC.,

Opposer,

v.

KONAMI CORPORATION,

Applicant.

Consolidated Opposition No. 91/153,578
Serial Nos.: 76/074,595 and 76/075,729

**OPPOSER'S SUPPLEMENTAL RESPONSE TO APPLICANT'S FIRST DOCUMENT
REQUEST**

Pursuant to a Protective Order entered between the parties and filed with the Board on October 7, 2003, and subject to the general objections stated in Opposer's Response to Applicant's First Document Request, which are incorporated herein, Opposer, UGO NETWORKS, INC. ("Opposer"), hereby supplements its Response to Applicant's First Request for Production of Documents and Things, dated March 14, 2003, as follows:

RESPONSES

4. Produce those documents and things regarding the earliest use or anticipated first use anywhere, and the earliest use or anticipated first use in commerce, of each of Opposer's Marks by or on behalf of Opposer or any related company(ies).

Supplemental Response No. 4

Opposer will produce an Asset Purchase Agreement between Proactive Media, UGO, and Actionworld, dated June 12, 1998, previously withheld pending entry of a suitable Protective Order by the Board.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **OPPOSER'S SUPPLEMENTAL RESPONSE TO APPLICANT'S FIRST DOCUMENT REQUEST** was served on counsel for Applicant, this 19th day of November, 2003, by sending same via Federal Express to:

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Victoria Nicolau

UGO Networks, Inc. v. Konami Corporation,
Consolidated Opposition No. 91/153,578 (USPTO – TTAB)

EXHIBIT 22

**To Applicant's Motions to Compel Production of Witnesses,
To Determine the Sufficiency of Admissions
And to Suspend Proceedings**



November 21, 2003
Via Facsimile

William M. Ried, Esquire
WILLKIE FARR & GALLAGHER
787 Seventh Avenue
New York, New York 10019-6099

ATTORNEYS AT LAW

JEFFREY H. KAUFMAN
(703) 412-6404
JKAUFMAN@OBLON.COM

Re: *UGO Networks, Inc. v. Konami Corporation*
Opposition No. 153,578
U.S. Appln. Serial No. 76/074,595
Our Ref.: 231349US-1394-229237-33

Dear Mr. Ried:

We have reviewed Opposer's Supplemental Response to Applicant's First Set of Interrogatories and Opposer's Supplemental Response to Applicant's First Request for Production of Documents. Several of Opposer's supplemental responses remain deficient and are not fully responsive to Applicant's specific discovery requests. Again, we write in good faith to resolve such discovery disputes before bringing them before the Board pursuant to Trademark Rule 2.120(e). Please supplement Opposer's responses as outlined below by November 25, 2003.

Opposer's Supplemental Response to Applicant's First Set of Interrogatories:

Interrogatory No. 8: "For each service identified in answer to Interrogatory No. 5, state, by calendar quarter, the dollar volume budgeted and expended by Opposer to promote Opposer's Marks in connection therewith."

Supplemental Response: "Opposer responds that it has maintained no records breaking down its advertising budget that would be responsive to this interrogatory."

Opposer's supplemental response is non-responsive. The operative portion of the interrogatory requests that Opposer state the amount of money Opposer has budgeted and spent to promote services under its marks. Opposer's response that it cannot do so "by calendar quarter" ignores the substance of the interrogatory altogether. Please supplement Opposer's response by providing all responsive information and records regardless of how the information is organized.



Interrogatory No. 9: "For each service identified in answer to Interrogatory No. 5, state, by calendar quarter, the approximate income anticipated and received to date from sales of Opposer's Services in connection with each of Opposer's Marks."

Supplemental Response: "Opposer responds that it has maintained no records breaking down its income and revenue in a way that would be responsive to this interrogatory. However, Opposer notes that documents it produced in response to Applicant's First Document Request reveal that, as of March 2001, Opposer had raised a total of approximately eighty million dollars (\$80,000,000) in funding and had revenues during the year 2000 in excess of fifteen million dollars (\$15,000,000)."

Opposer's supplemental response is non-responsive and incomplete. Again, Opposer has deliberately withheld responsive information based solely on the way that information is documented. To the extent that Opposer cannot state its income in the manner requested, it should explain reasons therefor and nevertheless produce all responsive information. Finally, Opposer's response fails to indicate whether any revenue generated was as a result of sales of services provided in connection with Opposer's Marks.

Interrogatory No. 18: "Identify each reported instance of actual confusion, mistake, or deception known to Opposer between Opposer's Services promoted or sold in connection with any of Opposer's Marks and Applicant's Products promoted or sold in connection with Applicant's Mark."

Supplemental Response: "Employees of Opposer have observed instances of actual confusion over the past several years regarding whether UGO is related to YU-GI-OH and/or Konami from: a) Opposer's advertisers; b) Opposer's clients; and c) family members of Opposer's employees. Additionally, Opposer appends hereto a printout of the Web site located at the URL <http://www.hh.ij4u.or.jp/~ugo/index.html>. This site appears to be a UGO copycat site in Japan selling copycat YU-GI-OH illustrations. The home page features a picture of a Japanese anime character, possibly associated with YU-GI-OH, signing its name as 'UGO.'" Mr. Gary Coleman, who participated in a UGO Web-a-Thon and has been a UGO weekly columnist, and whose image and voice have recently been incorporated into an online game called "Postal 2," has reported that players of Postal 2 are regularly confused about an association between UGO and YU-GI-OH."

Opposer's supplemental response is non-responsive. In the above interrogatory, Applicant has requested information about "instances" of actual confusion. Opposer, however,

William M. Ried, Esquire
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Page 3

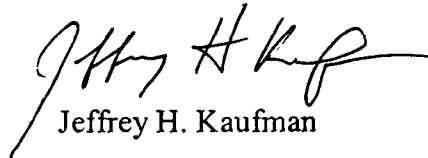


deliberately has not identified a single instance of claimed actual confusion instead providing vague descriptions of uncorroborated double hearsay as to possible claimed instances of actual confusion. To adequately respond to the interrogatory, Opposer must identify and describe each claimed instance of actual confusion, by providing the date, time, location and circumstances of each such claimed instance, the persons involved therein and the persons with knowledge of each claimed instance.

Please arrange for Opposer to supplement its responses no later than Tuesday, November 25, 2003.

Sincerely,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman

JHK/BBD/JAC/kan {I:\ATTY\JHK\KONAMI\LETTERS\1394-231349US-LTR12.DOC}

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OUR REF.: 231349US-1394-229237-33

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